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# **Health & Human Services Quality Subcommittee**

## **Action Packet**

**Wednesday, April 6, 2011**

**8:00 AM**

**306 HOB**

**Dean Cannon  
Speaker**

**John Wood  
Chair**

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**Summary:**

**Health & Human Services Quality Subcommittee**

*Wednesday April 06, 2011 08:00 am*

HB 393	Favorable With Committee Substitute Amendment 1 Adopted Without Objection	Yeas: 15 Nays: 0
HB 471	Favorable With Committee Substitute Amendment 1 Adopted Without Objection	Yeas: 14 Nays: 0
HB 585	Unfavorable	Yeas: 6 Nays: 7
HB 831	Favorable With Committee Substitute Amendment 1 Adopted Without Objection	Yeas: 11 Nays: 0
HB 1037	Favorable With Committee Substitute Amendment 1 Adopted Without Objection	Yeas: 14 Nays: 0
HB 1289	Favorable With Committee Substitute Amendment 1 Adopted Without Objection	Yeas: 8 Nays: 3

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
John Wood (Chair)	X		
Jim Boyd	X		
Richard Corcoran	X		
Jose Diaz	X		
Matt Gaetz	X		
Eduardo Gonzalez	X		
Matt Hudson	X		
Larry Metz	X		
Mark Pafford	X		
Scott Randolph	X		
Betty Reed	X		
Ronald Renuart	X		
Patrick Rooney, Jr.	X		
Elaine Schwartz	X		
Dwayne Taylor	X		
<b>Totals:</b>	<b>15</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**HB 393 : Treatment Programs for Impaired Practitioners**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran	X				
Jose Diaz	X				
Matt Gaetz	X				
Eduardo Gonzalez	X				
Matt Hudson	X				
Larry Metz	X				
Mark Pafford	X				
Scott Randolph	X				
Betty Reed	X				
Ronald Renuart	X				
Patrick Rooney, Jr.	X				
Elaine Schwartz	X				
Dwayne Taylor	X				
John Wood (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

**HB 393 Amendments**

**Amendment 1**

*Adopted Without Objection*

**Appearances:**

HB 393

Scott, Jeff (Lobbyist) - Waive In Support  
 Florida Medical Association  
 PO Box 10269  
 Tallahassee FL 32302  
 Phone: (850)224-6496

Treatment Programs For Impaired Practitioners

Winn, Stephen (Lobbyist) - Waive In Support  
 Florida Osteopathic Medical Association  
 2007 Apalachee Pky  
 Tallahassee FL 32301  
 Phone: (850)878-7364

HB 393

Brown, Dr. Martha (State Employee) - Waive In Support  
 PRN (Professionals Resource Network)  
 2nd Street  
 Fernandina Beach Florida  
 Phone: 1-800-888-8776

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

HB 393

Small, Anna (Lobbyist) - Waive In Support

Intervention Project for Nurses

215 S. Monroe Street, Suite 400

Tallahassee FL 32308

Phone: (850) 681-6810

**Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 393 (2011)

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<u>Y</u>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Quality Subcommittee  
3 Representative(s) Davis offered the following:  
4

**Amendment (with title amendment)**

5  
6 Remove everything after the enacting clause and insert:  
7 Section 1. Subsection (10) is added to section 20.165, Florida  
8 Statutes, to read:

9 20.165 Department of Business and Professional  
10 Regulation.—There is created a Department of Business and  
11 Professional Regulation.

12 (10) The Department of Business and Professional  
13 Regulation may require a person licensed by or applying for a  
14 license from the department to be governed by the provisions of  
15 s. 456.076 as if the person was under the jurisdiction of the  
16 Division of Medical Quality Assurance. The Department of  
17 Business and Professional Regulation may exercise any of the  
18 powers granted to the Department of Health by s. 456.076, and

Amendment No.1

19 the term "board" means the board from which the license was  
20 granted or is sought.

21 Section 2. Subsection (4) of section 456.001, Florida  
22 Statutes, is amended to read:

23 456.001 Definitions.—As used in this chapter, the term:

24 (4) "Health care practitioner" means any person licensed  
25 under part III of chapter 401; chapter 457; chapter 458; chapter  
26 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter  
27 464; chapter 465; chapter 466; chapter 467; part I, part II,  
28 part III, part IV, part V, part X, part XIII, or part XIV of  
29 chapter 468; chapter 478; chapter 480; part III or part IV of  
30 chapter 483; chapter 484; chapter 486; chapter 490; or chapter  
31 491.

32 Section 3. Subsection (2) of section 456.0635, Florida  
33 Statutes, is amended to read:

34 456.0635 Medicaid fraud; disqualification for license,  
35 certificate, or registration.—

36 (2) Each board within the jurisdiction of the department,  
37 or the department if there is no board, shall refuse to admit a  
38 candidate to any examination and refuse to issue or renew a  
39 license, certificate, or registration to any applicant if the  
40 candidate or applicant or any principal, officer, agent,  
41 managing employee, or affiliated person of the applicant, has  
42 been:

43 (a) Convicted of, or entered a plea of guilty or nolo  
44 contendere to, regardless of adjudication, a felony under  
45 chapter 409, chapter 817, chapter 893, 21 U.S.C. ss. 801-970, or  
46 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent

Amendment No.1

47 | period of probation for such conviction or pleas ended more than  
48 | 15 years before ~~prior to~~ the date of the application. The  
49 | disqualification set forth in this paragraph does not apply to  
50 | any person who is determined to have been suffering from an  
51 | addiction or impairment at the time of the conduct for which the  
52 | person was convicted, or who entered a plea of guilty or nolo  
53 | contendere to, regardless of adjudication, a felony under  
54 | chapter 893 and who subsequently enrolled in and continues to  
55 | successfully participate in or has subsequently successfully  
56 | completed an impaired practitioner program as set forth in s.  
57 | 456.076(1) or the equivalent of such program in another  
58 | jurisdiction. This exception from disqualification does not  
59 | prohibit or require action against the license, certificate, or  
60 | registration of such person pursuant to the disciplinary  
61 | provisions of this chapter or the appropriate practice act;

62 |       (b) Terminated for cause from the Florida Medicaid program  
63 | pursuant to s. 409.913, unless the applicant has been in good  
64 | standing with the Florida Medicaid program for the most recent 5  
65 | years; or

66 |       (c) Terminated for cause, pursuant to the appeals  
67 | procedures established by the state or Federal Government, from  
68 | any other state Medicaid program or the federal Medicare  
69 | program, unless the applicant has been in good standing with a  
70 | state Medicaid program or the federal Medicare program for the  
71 | most recent 5 years and the termination occurred at least 20  
72 | years before ~~prior to~~ the date of the application.

73 |       Section 4. Subsection (5) is added to section 456.074,  
74 | Florida Statutes, to read:



## Amendment No.1

75 456.074 Certain health care practitioners; immediate  
76 suspension of license.—

77 (5) If a treatment program for impaired practitioners  
78 which is retained by the department pursuant to s. 456.076  
79 discloses to the department that:

80 (a) A licensed health care practitioner as defined in s.  
81 456.001(4) is not progressing satisfactorily in that treatment  
82 program; and

83 (b) The health care practitioner's impairment affects his  
84 or her practice and constitutes an immediate, serious danger to  
85 the public health, safety, or welfare,

86  
87 the State Surgeon General shall review the matter within 10  
88 business days after receiving the disclosure, and, if warranted,  
89 shall issue an emergency order suspending or restricting the  
90 health care practitioner's license.

91 Section 5. Subsection (2), paragraph (d) of subsection  
92 (3), and paragraph (b) of subsection (7) of section 456.076,  
93 Florida Statutes, are amended, and subsection (8) is added to  
94 that section, to read:

95 456.076 Treatment programs for impaired practitioners.—

96 (2)(a) The department shall retain one or more impaired  
97 practitioner consultants who are each licensees. ~~The consultant~~  
98 ~~shall be a licensee~~ under the jurisdiction of the Division of  
99 Medical Quality Assurance within the department and who must be:

100 1. A practitioner or recovered practitioner licensed under  
101 chapter 458, chapter 459, or part I of chapter 464; ~~r~~ or

## Amendment No.1

102       2. An entity employing a medical director or employing a  
103 registered nurse as an executive director, who must be a  
104 practitioner or recovered practitioner licensed under chapter  
105 458, chapter 459, or part I of chapter 464.

106       (b) An entity that is retained as a consultant under this  
107 section and employs a medical director or registered nurse as an  
108 executive director is not required to be licensed as a substance  
109 abuse provider or mental health treatment provider under chapter  
110 394, chapter 395, or chapter 397 in order to operate as a  
111 consultant under this section if the entity employs or contracts  
112 with licensed professionals to perform or appropriately  
113 supervise any specific treatment or evaluation that requires  
114 individual licensing or supervision.

115       (c) The consultant shall assist the probable cause panel  
116 and department in carrying out the responsibilities of this  
117 section. This ~~includes shall include~~ working with department  
118 investigators to determine whether a practitioner is, in fact,  
119 impaired. The consultant may contract for services to be  
120 provided, for appropriate compensation, if requested by a the  
121 school or program, for students enrolled in a school ~~schools~~ for  
122 licensure as a health care practitioner under chapter 456 or a  
123 veterinarian under chapter 474 ~~allopathic physicians or~~  
124 physician assistants under chapter 458, osteopathic physicians  
125 or physician assistants under chapter 459, nurses under chapter  
126 464, or pharmacists under chapter 465 who are alleged to be  
127 impaired as a result of the misuse or abuse of alcohol or drugs,  
128 or both, or due to a mental or physical condition.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 393 (2011)

Amendment No.1

129       (d) The department is not responsible under any  
130 circumstances for paying the costs of care provided by approved  
131 treatment providers, and the department is not responsible for  
132 paying the costs of consultants' services provided for such  
133 students.

134       (e) A medical school accredited by the Liaison Committee  
135 on Medical Education of the Commission on Osteopathic College  
136 Accreditation, or another ~~ether~~ school providing for the  
137 education of students enrolled in preparation for licensure as a  
138 health care practitioner under chapter 456 or a veterinarian  
139 under chapter 474 ~~allopathic physicians under chapter 458 or~~  
140 ~~osteopathic physicians under chapter 459~~, which school is  
141 governed by accreditation standards requiring notice and the  
142 provision of due process procedures to students, is not liable  
143 in any civil action for referring a student to the consultant  
144 retained by the department or for disciplinary actions that  
145 adversely affect the status of a student when the disciplinary  
146 actions are instituted in reasonable reliance on the  
147 recommendations, reports, or conclusions provided by such  
148 consultant, if the school, in referring the student or taking  
149 disciplinary action, adheres to the due process procedures  
150 adopted by the applicable accreditation entities and if the  
151 school committed no intentional fraud in carrying out the  
152 provisions of this section.

153       (3)

154       (d) Whenever the department receives a legally sufficient  
155 complaint alleging that a licensee or applicant is impaired as  
156 described in paragraph (a) and no complaint against the licensee

Amendment No.1

157 or applicant other than impairment exists, the appropriate  
158 board, the board's designee, or the department shall forward all  
159 information in its possession regarding the impaired licensee or  
160 applicant to the consultant. For the purposes of this section, a  
161 suspension from hospital staff privileges due to the impairment  
162 does not constitute a complaint.

163 (7)

164 (b) In accordance with s. 284.385, the Department of  
165 Financial Services shall defend any claim, suit, action, or  
166 proceeding, including a claim, suit, action, or proceeding for  
167 injunctive, affirmative, or declaratory relief, against the  
168 consultant, the consultant's officers or employees, or those  
169 acting at the direction of the consultant for the limited  
170 purpose of an emergency intervention on behalf of a licensee or  
171 student as described in subsection (2) when the consultant is  
172 unable to perform such intervention which is brought as a result  
173 of any act or omission by any of the consultant's officers and  
174 employees and those acting under the direction of the consultant  
175 for the limited purpose of an emergency intervention on behalf  
176 of a licensee or student as described in subsection (2) when the  
177 consultant is unable to perform such intervention when such act  
178 or omission arises out of and in the scope of the consultant's  
179 duties under its contract with the department.

180 (8) An impaired practitioner consultant is the official  
181 custodian of records concerning any impaired licensee monitored  
182 by that consultant. The consultant may not, except to the extent  
183 necessary for carrying out the consultant's duties under this  
184 section, disclose to the impaired licensee or his or her

Amendment No.1

185 designee any information that is disclosed to or obtained by the  
186 consultant and is confidential under paragraph (5)(a). If a  
187 disciplinary proceeding is pending, an impaired licensee may  
188 obtain such information from the department under s.  
189 456.073(10).

190 Section 6. This act shall take effect July 1, 2011.

191

192

193

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**T I T L E A M E N D M E N T**

194

195 Remove the entire title and insert:

196

197 An act relating to the regulation of professions; amending  
198 s. 20.165, F.S.; authorizing the Department of Business and  
199 Professional Regulation to require a person licensed by or  
200 applying for a license from the department to be governed by  
201 provisions providing programs for impaired practitioners under  
202 the jurisdiction of the Division of Medical Quality Assurance  
203 within the Department of Health; authorizing the Department of  
204 Business and Professional Regulation to exercise any of the  
205 powers granted to the Department of Health with respect to such  
206 programs; amending s. 456.001, F.S.; redefining the term "health  
207 care practitioner" as it relates to the regulation of health  
208 care professions to include those persons certified or licensed  
209 to provide medical transportation services or radiological  
210 services; amending s. 456.0635, F.S.; exempting a health care  
211 practitioner from disqualification for a license, certificate,  
212 or registration if the practitioner was suffering from an  
addiction or impairment at the time of the disqualifying conduct

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 393 (2011)

Amendment No.1

213 and subsequently completes an impaired practitioner program;  
214 amending s. 456.074, F.S.; requiring the State Surgeon General  
215 to issue an emergency order suspending or restricting a health  
216 care practitioner's license under certain circumstances;  
217 amending s. 456.076, F.S.; exempting an entity retained by the  
218 Department of Health as an impaired practitioner consultant from  
219 certain licensing requirements if the entity employs or  
220 contracts with licensed professionals; revising the schools or  
221 programs that may contract for impaired practitioner consulting  
222 services; limiting the liability of certain medical schools and  
223 schools that prepare health care practitioners and veterinarians  
224 for licensure for referring a student to an impaired  
225 practitioner consultant; clarifying the types of legal  
226 proceedings related to services provided by impaired  
227 practitioner consultants which are defended by the Department of  
228 Financial Services; clarifying requirements for an impaired  
229 practitioner consultant to maintain as confidential certain  
230 information concerning an impaired practitioner; providing an  
231 effective date.

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

4/6/2011 8:00:00AM

**Location:** 306 HOB

**HB 471 : Cord Blood Banking**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran	X				
Jose Diaz			X		
Matt Gaetz	X				
Eduardo Gonzalez	X				
Matt Hudson	X				
Larry Metz	X				
Mark Pafford	X				
Scott Randolph	X				
Betty Reed	X				
Ronald Renuart	X				
Patrick Rooney, Jr.	X				
Elaine Schwartz	X				
Dwayne Taylor	X				
John Wood (Chair)	X				
<b>Total Yeas: 14    Total Nays: 0</b>					

**HB 471 Amendments**

**Amendment 1**

*Adopted Without Objection*

**Appearances:**

Umbilical Cord Blood Banking  
 Garcia, Carlos (General Public) - Proponent  
 Myself  
 7365 SW 142nd Terrace  
 Miami FL 33158  
 Phone: (305) 975-3929

Umbilical Cord Blood Banking  
 Cary, Zina (Lobbyist) - Waive In Support  
 The Leukemia

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 471 (2011)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Quality Subcommittee  
3 Representative(s) Nuñez offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 381.06016, Florida Statutes, is created  
8 to read:

9 381.06016 Umbilical cord blood awareness.—

10 (1) The Department of Health shall make publicly  
11 available, by posting on its Internet website, resources and an  
12 Internet website link to materials relating to umbilical cord  
13 blood which have been developed by the Parent's Guide to Cord  
14 Blood Foundation, Inc., including:

15 (a) An explanation of the potential value and uses of  
16 umbilical cord blood, including cord blood cells and stem cells,  
17 for individuals who are, as well as individuals who are not,  
18 biologically related to a mother or her newborn child.



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19       (b) An explanation of the differences between using one's  
20 own cord blood cells and using biologically related or  
21 biologically unrelated cord blood stem cells in the treatment of  
22 disease.

23       (c) An explanation of the differences between public and  
24 private umbilical cord blood banking.

25       (d) The options available to a mother relating to stem  
26 cells that are contained in the umbilical cord blood after the  
27 delivery of her newborn, including:

28           1. Donating the stem cells to a public umbilical cord  
29 blood bank where facilities are available;

30           2. Storing the stem cells in a private family umbilical  
31 cord blood bank for use by immediate and extended family  
32 members;

33           3. Storing the stem cells for use by family members  
34 through a family or sibling donor banking program that provides  
35 free collection, processing, and storage if there is an existing  
36 medical need; and

37           4. Discarding the stem cells.

38       (e) The medical processes involved in the collection of  
39 cord blood.

40       (f) Criteria for medical or family history that can impact  
41 a family's consideration of umbilical cord blood banking,  
42 including the likelihood of using a baby's cord blood to serve  
43 as a match for a family member who has a medical condition.

44       (g) Options for ownership and future use of donated  
45 umbilical cord blood.

Amendment No.

46 (h) The average cost of public and private umbilical cord  
47 blood banking.

48 (i) The availability of public and private cord blood  
49 banks to residents of this state, including:

50 1. A list of public cord blood banks and the hospitals  
51 served by such blood banks;

52 2. A list of private cord blood banks that are available;  
53 and

54 3. The availability of free family banking and sibling  
55 donor programs if there is an existing medical need by a family  
56 member.

57 (j) An explanation of which racial and ethnic groups are  
58 in particular need of publicly donated cord blood samples based  
59 upon medical data developed by the Health Resources and Services  
60 Administration of the United States Department of Health and  
61 Human Services.

62 (2) The Department of Health shall encourage health care  
63 providers who provide health care services that are directly  
64 related to a woman's pregnancy to make available to a pregnant  
65 patient before her third trimester of pregnancy, or, if later,  
66 at the first visit of such patient to the provider, information  
67 listed under subsection (1) which relates to the patient's  
68 options regarding umbilical cord blood banking.

69 (3) A health care provider or a health care facility, or  
70 any employee or agent thereof, is not liable for damages in a  
71 civil action, subject to prosecution in a criminal proceeding,  
72 or subject to disciplinary action by the appropriate regulatory

Amendment No.

73 board for acting in good faith to comply with the provisions of  
74 this section.

75 Section 2. This act shall take effect July 1, 2011.  
76  
77

78 -----  
79 **T I T L E A M E N D M E N T**

80 Remove the entire title and insert:

81 A bill to be entitled

82 An act relating to umbilical cord blood banking; creating  
83 s. 381.06016, F.S.; requiring the Department of Health to  
84 post on its website certain resources and a website link  
85 to specified materials regarding umbilical cord blood  
86 banking; requiring the department to encourage certain  
87 health care providers to make available to their pregnant  
88 patients information related to umbilical cord blood  
89 banking; providing that a health care provider or health  
90 care facility and its employees or agents are not liable  
91 for damages in a civil action, subject to prosecution in a  
92 criminal proceeding, or subject to disciplinary action by  
93 the appropriate regulatory board for acting in good faith  
94 to comply with the act; providing an effective date.

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**HB 585 : Pharmacy**

*Unfavorable*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran		X			
Jose Diaz		X			
Matt Gaetz		X			
Eduardo Gonzalez		X			
Matt Hudson	X				
Larry Metz	X				
Mark Pafford		X			
Scott Randolph	X				
Betty Reed					X
Ronald Renuart		X			
Patrick Rooney, Jr.	X				
Elaine Schwartz		X			
Dwayne Taylor			X		
John Wood (Chair)	X				
<b>Total Yeas: 6      Total Nays: 7</b>					

**Appearances:**

HB 585

Hickman, Jonathan (General Public) - Proponent  
 Individual (Certified Immunizing Pharmacist)  
 371 Milestone Dr.  
 Tallahassee FL 32312  
 Phone: (904) 655-6385

Pharmacy

Winn, Stephen (Lobbyist) - Waive In Opposition  
 Florida Osteopathic Medical Association  
 2007 Apalachee Pky  
 Tallahassee FL 32301  
 Phone: (850)878-7364

HB 585

Pirazolo D.O., Jason - Opponent  
 Florida Medical Association  
 P.O. Box 10269  
 Tallahassee FL 32302  
 Phone: (850) 224-6496

Pharmacist Immunization

Jackson, Michael (Lobbyist) - Proponent  
 Florida Pharmacy Association  
 610 N Adams St  
 Tallahassee FL 32301  
 Phone: (850)222-2400

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

HB 585

Robertson, Dell (State Employee) - Proponent

Dell Robertson

9022 Foxwood Dr N

Tallahassee FL 32309

Phone: (850)

Pharmacy/Immunization

West, Sally (Lobbyist) - Proponent

Florida Retail Federation

Immunization Services By Pharmacy Interns

McQuone, Michael (Lobbyist) - Proponent

Florida Society of Health System Pharmacists, Inc

2304 Killlearn Center Blvd Suite B

Tallahassee FL 32309

Phone: (850)906-9333

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**HB 831 : High School Athletic Trainers**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran			X		
Jose Diaz	X				
Matt Gaetz	X				
Eduardo Gonzalez	X				
Matt Hudson	X				
Larry Metz	X				
Mark Pafford	X				
Scott Randolph			X		
Betty Reed			X		
Ronald Renuart	X				
Patrick Rooney, Jr.	X				
Elaine Schwartz	X				
Dwayne Taylor			X		
John Wood (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 0</b>			

**HB 831 Amendments**

**Amendment 1**

*Adopted Without Objection*

**Appearances:**

Athletic Trainers  
 Nobles, Molly (Lobbyist) - Waive In Support  
 Andrews Institute of Othopedics and Sports Medicine

Waive in Support of HB 831  
 Christian, Amy (Lobbyist) - Waive In Support  
 Florida Athletic Trainers Association  
 537 E Park Ave  
 Tallahassee FL 32301  
 Phone: (850) 224-1900

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 831 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<b>Y</b>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

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1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Quality Subcommittee  
3 Representative(s) Rooney offered the following:

4

5 **Amendment**

6 Remove line 57 and insert:

7 Section 2. This act shall take effect August 1, 2011.

8

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**HB 1037 : Continuing Care Retirement Communities**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran	X				
Jose Diaz	X				
Matt Gaetz	X				
Eduardo Gonzalez	X				
Matt Hudson	X				
Larry Metz	X				
Mark Pafford	X				
Scott Randolph	X				
Betty Reed	X				
Ronald Renuart	X				
Patrick Rooney, Jr.	X				
Elaine Schwartz	X				
Dwayne Taylor			X		
John Wood (Chair)	X				
<b>Total Yeas: 14</b>		<b>Total Nays: 0</b>			

**HB 1037 Amendments**

**Amendment 1**

*Adopted Without Objection*

**Appearances:**

Continuing Care Retirement Communities  
 Napier, Bennett (Lobbyist) - Waive In Support  
 Florida Life Care Residents Association  
 325 John Knox Rd Ste L103  
 Tallahassee FL 32303  
 Phone: (850)224-0711

CCRCs  
 Senkewicz, MaryBeth (Lobbyist) (State Employee) - Waive In Support  
 Office of Insurance Regulation  
 200 E Gaines St  
 Tallahassee FL 32399  
 Phone: (850)413-5104

HB 1037  
 Boyd, Janegale (Lobbyist) - Waive In Support  
 Florida Association of Homes and Services for the Aging  
 1812 Riggins Rd  
 Tallahassee FL 32308  
 Phone: (850)671-3700

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION Y (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Quality Subcommittee  
3 Representative Bembry offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Section 651.011, Florida Statutes, is amended  
8 to read:

9 651.011 Definitions.—As used in ~~For the purposes of this~~  
10 chapter, the term:

11 (1) "Advertising" means the dissemination of written,  
12 visual, or electronic information by a provider, or any person  
13 affiliated with or controlled by a provider, to potential  
14 residents or their representatives for the purpose of inducing  
15 such persons to subscribe to or enter into a contract for  
16 continuing care or continuing care at-home ~~to reside in a~~  
17 ~~continuing care community that is subject to this chapter.~~

18 (2) "Continuing care" or "care" means, pursuant to a  
19 contract, furnishing shelter and nursing care or personal

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20 services to a resident who resides in a facility as defined in  
21 s. 429.02, whether such nursing care or personal services are  
22 provided in the facility or in another setting designated in by  
23 the contract for continuing care, by to an individual not  
24 related by consanguinity or affinity to the resident provider  
25 furnishing such care, upon payment of an entrance fee. Other  
26 personal services provided must be designated in the continuing  
27 care contract. Contracts to provide continuing care include  
28 agreements to provide care for any duration, including contracts  
29 that are terminable by either party.

30 (3) "Continuing Care Advisory Council" or "advisory  
31 council" means the council established in s. 651.121.

32 (4) "Continuing care at-home" means, pursuant to a  
33 contract other than a contract described in subsection (2),  
34 furnishing to a resident who resides outside the facility the  
35 right to future access to shelter and nursing care or personal  
36 services, whether such services are provided in the facility or  
37 in another setting designated in the contract, by an individual  
38 not related by consanguinity or affinity to the resident, upon  
39 payment of an entrance fee.

40 (5)-(4) "Entrance fee" means an initial or deferred payment  
41 of a sum of money or property made as full or partial payment  
42 for continuing care or continuing care at-home ~~to assure the~~  
43 ~~resident a place in a facility.~~ An accommodation fee, admission  
44 fee, member fee, or other fee of similar form and application  
45 are considered to be an entrance fee.

46 (6)-(5) "Facility" means a place where that provides  
47 continuing care is furnished and may include one or more

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48 physical plants on a primary or contiguous site or an  
49 immediately accessible site. As used in this subsection, the  
50 term "immediately accessible site" means a parcel of real  
51 property separated by a reasonable distance from the facility as  
52 measured along public thoroughfares, and "primary or contiguous  
53 site" means the real property contemplated in the feasibility  
54 study required by this chapter.

55 (7)-(6) "Generally accepted accounting principles" means  
56 those accounting principles and practices adopted by the  
57 Financial Accounting Standards Board and the American Institute  
58 of Certified Public Accountants, including Statement of Position  
59 90-8 with respect to any full year to which the statement  
60 applies.

61 (8)-(7) "Insolvency" means the condition in which the  
62 provider is unable to pay its obligations as they come due in  
63 the normal course of business.

64 (9)-(8) "Licensed" means that the provider has obtained a  
65 certificate of authority from the department.

66 (10) "Nursing care" means those services or acts rendered  
67 to a resident by an individual licensed or certified pursuant to  
68 chapter 464.

69 (11) "Personal services" has the same meaning as in s.  
70 429.02.

71 (12)-(9) "Provider" means the owner or operator, whether a  
72 natural person, partnership or other unincorporated association,  
73 however organized, trust, or corporation, of an institution,  
74 building, residence, or other place, whether operated for profit  
75 or not, which owner or operator provides continuing care or

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76 continuing care at-home for a fixed or variable fee, or for any  
77 other remuneration of any type, whether fixed or variable, for  
78 the period of care, payable in a lump sum or lump sum and  
79 monthly maintenance charges or in installments. The term, ~~but~~  
80 does not apply to ~~mean~~ an entity that has existed and  
81 continuously operated a facility located on at least 63 acres in  
82 this state providing residential lodging to members and their  
83 spouses for at least 66 years on or before July 1, 1989, and has  
84 the residential capacity of 500 persons, is directly or  
85 indirectly owned or operated by a nationally recognized  
86 fraternal organization, is not open to the public, and accepts  
87 only its members and their spouses as residents.

88 (13) ~~(10)~~ "Records" means the permanent financial,  
89 directory, and personnel information and data maintained by a  
90 provider pursuant to this chapter.

91 (14) ~~(11)~~ "Resident" means a purchaser of, a nominee of, or  
92 a subscriber to a continuing care or continuing care at-home  
93 contract agreement. Such contract agreement does not give the  
94 resident a part ownership of the facility in which the resident  
95 is to reside, unless expressly provided ~~for~~ in the contract  
96 agreement.

97 (15) "Shelter" means an independent living unit, room,  
98 apartment, cottage, villa, personal care unit, nursing bed, or  
99 other living area within a facility set aside for the exclusive  
100 use of one or more identified residents.

101 Section 2. Section 651.012, Florida Statutes, is amended  
102 to read:

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103 651.012 Exempted facility; written disclosure of  
104 exemption.—Any facility exempted under ss. 632.637(1)(e) and  
105 651.011(12)(9) must provide written disclosure of such exemption  
106 to each person admitted to the facility after October 1, 1996.  
107 This disclosure must be written using language likely to be  
108 understood by the person and must briefly explain the exemption.

109 Section 3. Section 651.013, Florida Statutes, is amended  
110 to read:

111 651.013 Chapter exclusive; applicability of other laws.—

112 (1) Except as herein provided, providers of continuing  
113 care and continuing care at-home are ~~shall be~~ governed by the  
114 provisions of this chapter and are ~~shall be~~ exempt from all  
115 other provisions of the Florida Insurance Code.

116 (2) In addition to other applicable provisions cited in  
117 this chapter, the office has the authority granted under ss.  
118 624.302 and 624.303, 624.308-624.312, 624.319(1)-(3), 624.320-  
119 624.321, 624.324, and 624.34 of the Florida Insurance Code to  
120 regulate providers of continuing care and continuing care at-  
121 home.

122 Section 4. Section 651.021, Florida Statutes, is amended  
123 to read:

124 651.021 Certificate of authority required.—

125 (1) No person may engage in the business of providing  
126 continuing care, ~~or~~ issuing contracts for continuing care or  
127 continuing care at-home, or constructing agreements or construct  
128 a facility for the purpose of providing continuing care in this  
129 state without a certificate of authority ~~therefor~~ obtained from  
130 the office as provided in this chapter. This subsection does

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131 | ~~shall not be construed to prohibit the preparation of a the~~  
132 | construction site or construction of a model residence unit for  
133 | marketing purposes, or both. The office may allow the purchase  
134 | of an existing building for the purpose of providing continuing  
135 | care if the office determines that the purchase is not being  
136 | made to circumvent ~~for the purpose of circumventing~~ the  
137 | prohibitions ~~contained~~ in this section.

138 |       (2)(a) Written approval must be obtained from the office  
139 | before commencing commencement ~~of~~ construction or marketing for  
140 | an any expansion of a certificated facility equivalent to the  
141 | addition of at least 20 percent of existing units or 20 percent  
142 | or more in the number of continuing care at-home contracts,  
143 | ~~written approval must be obtained from the office.~~ This  
144 | provision does not apply to construction for which a certificate  
145 | of need from the Agency for Health Care Administration is  
146 | required.

147 |       (a) For providers that offer both continuing care and  
148 | continuing care at-home, the 20 percent is based on the total of  
149 | both existing units and existing contracts for continuing care  
150 | at-home. For purposes of this subsection, an expansion includes  
151 | increases in the number of constructed units or continuing care  
152 | at-home contracts or a combination of both.

153 |       (b) The application for such approval shall be on forms  
154 | adopted by the commission and provided by the office. The  
155 | application must ~~shall~~ include the feasibility study required by  
156 | s. 651.022(3) or s. 651.023(1)(b) and such other information as  
157 | required by s. 651.023. If the expansion is only for continuing  
158 | care at-home contracts, an actuarial study prepared by an

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159 independent actuary in accordance with standards adopted by the  
160 American Academy of Actuaries which presents the financial  
161 impact of the expansion may be substituted for the feasibility  
162 study.

163 (c) In determining whether an expansion should be  
164 approved, the office shall use ~~utilize~~ the criteria provided in  
165 ss. 651.022(6) and 651.023(4)~~(2)~~.

166 Section 5. Paragraphs (d) and (g) of subsection (2) and  
167 subsections (4) and (6) of section 651.022, Florida Statutes,  
168 are amended to read:

169 651.022 Provisional certificate of authority;  
170 application.—

171 (2) The application for a provisional certificate of  
172 authority shall be on a form prescribed by the commission and  
173 shall contain the following information:

174 (d) The contracts ~~agreements~~ for continuing care and  
175 continuing care at-home to be entered into between the provider  
176 and residents which meet the minimum requirements of s. 651.055  
177 or s. 651.057 and which include a statement describing the  
178 procedures required by law relating to the release of escrowed  
179 entrance fees. Such statement may be furnished through an  
180 addendum.

181 (g) The forms of the ~~continuing care~~ residency contracts,  
182 reservation contracts, escrow agreements, and wait list  
183 contracts, if applicable, which are proposed to be used by the  
184 provider in the furnishing of care. ~~If~~ The office shall approve  
185 ~~finds that the continuing care~~ contracts and escrow agreements  
186 that comply with ss. 651.023(1)(c), 651.033, and 651.055, and

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187 651.057 ~~it shall approve them~~. Thereafter, no other form of  
188 contract or agreement may be used by the provider until it has  
189 been submitted to the office and approved.

190 (4) If an applicant has or proposes to have more than one  
191 facility offering continuing care or continuing care at-home, a  
192 separate provisional certificate of authority and a separate  
193 certificate of authority must ~~shall~~ be obtained for each  
194 facility.

195 (6) Within 45 days after ~~from~~ the date an application is  
196 deemed ~~to be~~ complete, as set forth in paragraph (5) (b), the  
197 office shall complete its review and ~~shall~~ issue a provisional  
198 certificate of authority to the applicant based upon its review  
199 and a determination that the application meets all requirements  
200 of law, and that the feasibility study was based on sufficient  
201 data and reasonable assumptions, and that the applicant will be  
202 able to provide continuing care or continuing care at-home as  
203 proposed and meet all financial obligations related to its  
204 operations, including the financial requirements of this chapter  
205 ~~to provide continuing care as proposed~~. If the application is  
206 denied, the office shall notify the applicant in writing, citing  
207 the specific failures to meet the provisions of this chapter.  
208 Such denial entitles ~~shall entitle~~ the applicant to a hearing  
209 pursuant to ~~the provisions of~~ chapter 120.

210 Section 6. Section 651.023, Florida Statutes, is amended  
211 to read:

212 651.023 Certificate of authority; application.—

213 (1) After issuance of a provisional certificate of  
214 authority, the office shall issue to the holder of such



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215 provisional certificate ~~of authority~~ a certificate of authority  
216 ~~if; provided, however, that no certificate of authority shall be~~  
217 ~~issued until~~ the holder of the ~~such~~ provisional certificate ~~of~~  
218 ~~authority~~ provides the office with the following information:

219 (a) Any material change in status with respect to the  
220 information required to be filed under s. 651.022(2) in the  
221 application for the ~~a~~ provisional certificate ~~of authority~~.

222 (b) A feasibility study prepared by an independent  
223 consultant which contains all of the information required by s.  
224 651.022(3) and ~~contains~~ financial forecasts or projections  
225 prepared in accordance with standards adopted ~~promulgated~~ by the  
226 American Institute of Certified Public Accountants or ~~financial~~  
227 ~~forecasts or projections prepared~~ in accordance with standards  
228 for feasibility studies or continuing care retirement  
229 communities adopted ~~promulgated~~ by the Actuarial Standards  
230 Board.

231 1. The study must also contain an independent evaluation  
232 and examination opinion, or a comparable opinion acceptable to  
233 the office, by the consultant who prepared the study, of the  
234 underlying assumptions used as a basis for the forecasts or  
235 projections in the study and that the assumptions are reasonable  
236 and proper and ~~that~~ the project as proposed is feasible.

237 2. The study must ~~shall~~ take into account project costs,  
238 actual marketing results to date and marketing projections,  
239 resident fees and charges, competition, resident contract  
240 provisions, and any other factors which affect the feasibility  
241 of operating the facility.

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242       3. If the study is prepared by an independent certified  
243 public accountant, it must contain an examination opinion for  
244 the first 3 years of operations and financial projections having  
245 a compilation opinion for the next 3 years. If the study is  
246 prepared by an independent consulting actuary, it must contain  
247 mortality and morbidity data and an actuary's signed opinion  
248 that the project as proposed is feasible and that the study has  
249 been prepared in accordance with standards adopted by the  
250 American Academy of Actuaries.

251       (c) Subject to ~~the requirements of~~ subsection ~~(4)(2)~~, a  
252 provider may submit an application for a certificate of  
253 authority and any required exhibits upon submission of proof  
254 that the project has a minimum of 30 percent of the units  
255 reserved for which the provider is charging an entrance fee.  
256 ~~however, This does provision shall~~ not apply to an application  
257 for a certificate of authority for the acquisition of a facility  
258 for which a certificate of authority was issued before ~~prior to~~  
259 October 1, 1983, to a provider who subsequently becomes a debtor  
260 in a case under the United States Bankruptcy Code, 11 U.S.C. ss.  
261 101 et seq., or to a provider for which the department has been  
262 appointed receiver pursuant to ~~the provisions of~~ part II of  
263 chapter 631.

264       (d) Proof that commitments have been secured for both  
265 construction financing and long-term financing or a documented  
266 plan acceptable to the office has been adopted by the applicant  
267 for long-term financing.

268       (e) Proof that all conditions of the lender have been  
269 satisfied to activate the commitment to disburse funds other

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270 than the obtaining of the certificate of authority, the  
271 completion of construction, or the closing of the purchase of  
272 realty or buildings for the facility.

273 (f) Proof that the aggregate amount of entrance fees  
274 received by or pledged to the applicant, plus anticipated  
275 proceeds from any long-term financing commitment, plus funds  
276 from all other sources in the actual possession of the  
277 applicant, equal at least ~~not less than~~ 100 percent of the  
278 aggregate cost of constructing or purchasing, equipping, and  
279 furnishing the facility plus 100 percent of the anticipated  
280 startup losses of the facility.

281 (g) Complete audited financial statements of the  
282 applicant, prepared by an independent certified public  
283 accountant in accordance with generally accepted accounting  
284 principles, as of the date the applicant commenced business  
285 operations or for the fiscal year that ended immediately  
286 preceding the date of application, whichever is later, and  
287 complete unaudited quarterly financial statements attested to by  
288 the applicant after ~~subsequent to~~ the date of the last audit.

289 (h) Proof that the applicant has complied with the escrow  
290 requirements of subsection (5) ~~(3)~~ or subsection (7) ~~(5)~~ and will  
291 be able to comply with s. 651.035.

292 (i) Such other reasonable data, financial statements, and  
293 pertinent information as the commission or office may require  
294 with respect to the applicant or the facility, to determine the  
295 financial status of the facility and the management capabilities  
296 of its managers and owners.

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297        (2)~~(j)~~ Within 30 days after ~~of the~~ receipt of the  
298 information required under subsection (1) ~~paragraphs (a)-(h)~~,  
299 the office shall examine such information and ~~shall~~ notify the  
300 provider in writing, specifically requesting any additional  
301 information the office is permitted by law to require. Within 15  
302 days after receipt of all of the requested additional  
303 information, the office shall notify the provider in writing  
304 that all of the requested information has been received and the  
305 application is deemed to be complete as of the date of the  
306 notice. Failure to ~~se~~ notify the applicant in writing within the  
307 15-day period constitutes ~~shall constitute~~ acknowledgment by the  
308 office that it has received all requested additional  
309 information, and the application shall be deemed ~~to be~~ complete  
310 for purposes of review on ~~upon~~ the date of ~~the~~ filing ~~of~~ all of  
311 the required additional information.

312        (3)~~(k)~~ Within 45 days after an application is deemed  
313 complete as set forth in subsection (2) ~~paragraph (j)~~, and upon  
314 completion of the remaining requirements of this section, the  
315 office shall complete its review and ~~shall~~ issue, or deny a  
316 certificate of authority, to the holder of a provisional  
317 certificate of authority ~~a certificate of authority~~. If a  
318 certificate of authority is denied, the office must ~~shall~~ notify  
319 the holder of the provisional certificate ~~of authority~~ in  
320 writing, citing the specific failures to satisfy the provisions  
321 of this chapter. If denied, the holder of the provisional  
322 certificate is ~~of authority~~ ~~shall be~~ entitled to an  
323 administrative hearing pursuant to chapter 120.

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324        ~~(4)(2)(a)~~ The office shall issue a certificate of  
325 authority upon determining ~~its determination~~ that the applicant  
326 meets all requirements of law and has submitted all of the  
327 information required by this section, that all escrow  
328 requirements have been satisfied, and that the fees prescribed  
329 in s. 651.015(2) have been paid.

330        (a) Notwithstanding satisfaction of the 30-percent minimum  
331 reservation requirement of paragraph (1)(c), no certificate of  
332 authority shall be issued until the project has a minimum of 50  
333 percent of the units reserved for which the provider is charging  
334 an entrance fee, and proof ~~thereof~~ is provided to the office. If  
335 a provider offering continuing care at-home is applying for a  
336 certificate of authority or approval of an expansion pursuant to  
337 s. 651.021(2), the same minimum reservation requirements must be  
338 met for the continuing care and continuing care at-home  
339 contracts, independently of each other.

340        (b) In order for a unit to be considered reserved under  
341 this section, the provider must collect a minimum deposit of 10  
342 percent of the then-current entrance fee for that unit, and ~~must~~  
343 assess a forfeiture penalty of 2 percent of the entrance fee due  
344 to termination of the reservation contract after 30 days for any  
345 reason other than the death or serious illness of the resident,  
346 the failure of the provider to meet its obligations under the  
347 reservation contract, or other circumstances beyond the control  
348 of the resident that equitably entitle the resident to a refund  
349 of the resident's deposit. The reservation contract must ~~shall~~  
350 state the cancellation policy and the terms of the continuing  
351 care or continuing care at-home contract to be entered into.

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352 (5)-(3) Up to ~~no more than~~ 25 percent of the moneys paid  
353 for all or any part of an initial entrance fee may be included  
354 or pledged for the construction or purchase of the facility, ~~or~~  
355 ~~included or pledged~~ as security for long-term financing. The  
356 term "initial entrance fee" means the total entrance fee charged  
357 by the facility to the first occupant of a unit.

358 (a) A minimum of 75 percent of the moneys paid for all or  
359 any part of an initial entrance fee collected for continuing  
360 care or continuing care at-home shall be placed in an escrow  
361 account or on deposit with the department as prescribed in s.  
362 651.033.

363 (b) For an expansion as provided in s. 651.021(2), a  
364 minimum of 75 percent of the moneys paid for all or any part of  
365 an initial entrance fee collected for continuing care and 50  
366 percent of the moneys paid for all or any part of an initial fee  
367 collected for continuing care at-home shall be placed in an  
368 escrow account or on deposit with the department as prescribed  
369 in s. 651.033.

370 (6)-(4) The provider is ~~shall be~~ entitled to secure release  
371 of the moneys held in escrow within 7 days after receipt by the  
372 office of an affidavit from the provider, along with appropriate  
373 copies to verify, and notification to the escrow agent by  
374 certified mail, that the following conditions have been  
375 satisfied:

376 (a) A certificate of occupancy has been issued.

377 (b) Payment in full has been received for at least ~~no less~~  
378 ~~than~~ 70 percent of the total units of a phase or of the total of  
379 the combined phases constructed. If a provider offering

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380 continuing care at-home is applying for a release of escrowed  
381 entrance fees, the same minimum requirement must be met for the  
382 continuing care and continuing care at-home contracts,  
383 independently of each other.

384 (c) The consultant who prepared the feasibility study  
385 required by this section or a substitute approved by the office  
386 certifies within 12 months before the date of filing for office  
387 approval that there has been no material adverse change in  
388 status with regard to the feasibility study, ~~with such statement~~  
389 ~~dated not more than 12 months from the date of filing for office~~  
390 ~~approval~~. If a material adverse change exists ~~should exist~~ at  
391 the time of submission, ~~then~~ sufficient information acceptable  
392 to the office and the feasibility consultant must ~~shall~~ be  
393 submitted which remedies the adverse condition.

394 (d) Proof that commitments have been secured or a  
395 documented plan adopted by the applicant has been approved by  
396 the office for long-term financing.

397 (e) Proof that the provider has sufficient funds to meet  
398 the requirements of s. 651.035, which may include funds  
399 deposited in the initial entrance fee account.

400 (f) Proof as to the intended application of the proceeds  
401 upon release and proof that the entrance fees when released will  
402 be applied as represented to the office.

403  
404 Notwithstanding ~~any provision of~~ chapter 120, no person, other  
405 than the provider, the escrow agent, and the office, may ~~shall~~  
406 have a substantial interest in any office decision regarding

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407 release of escrow funds in any proceedings under chapter 120 or  
408 this chapter regarding release of escrow funds.

409 ~~(7)-(5)~~ In lieu of the provider fulfilling the requirements  
410 in subsection ~~(5)-(3)~~ and paragraphs ~~(6)(b)~~ ~~(4)(b)~~ and (d), the  
411 office may authorize the release of escrowed funds to retire all  
412 outstanding debts on the facility and equipment upon application  
413 of the provider and upon the provider's showing that the  
414 provider will grant to the residents a first mortgage on the  
415 land, buildings, and equipment that constitute the facility, and  
416 that the provider has satisfied ~~satisfies the requirements of~~  
417 paragraphs ~~(6)(a)~~ ~~(4)(a)~~, (c), and (e). Such mortgage shall  
418 secure the refund of the entrance fee in the amount required by  
419 this chapter. The granting of such mortgage is ~~shall be~~ subject  
420 to the following:

421 (a) The first mortgage is ~~shall be~~ granted to an  
422 independent trust that ~~which~~ is beneficially held by the  
423 residents. The document creating the trust must include ~~shall~~  
424 ~~contain~~ a provision that ~~it~~ agrees to an annual audit and will  
425 furnish to the office all information the office may reasonably  
426 require. The mortgage may secure payment on bonds issued to the  
427 residents or trustee. Such bonds are ~~shall be~~ redeemable after  
428 termination of the residency contract in the amount and manner  
429 required by this chapter for the refund of an entrance fee.

430 (b) Before granting a first mortgage to the residents, all  
431 construction must ~~shall~~ be substantially completed and  
432 substantially all equipment must ~~shall~~ be purchased. No part of  
433 the entrance fees may be pledged as security for a construction



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434 loan or otherwise used for construction expenses before the  
435 completion of construction.

436 (c) If the provider is leasing the land or buildings used  
437 by the facility, the leasehold interest must ~~shall~~ be for a term  
438 of at least 30 years.

439 (8)~~(6)~~ The timeframes provided under s. 651.022(5) and (6)  
440 apply to applications submitted under s. 651.021(2). The office  
441 may not issue a certificate of authority ~~under this chapter~~ to a  
442 any facility that ~~which~~ does not have a component that ~~which~~ is  
443 to be licensed pursuant to part II of chapter 400 or to part I  
444 of chapter 429 or that does ~~which will~~ not offer personal  
445 services or nursing services through written contractual  
446 agreement. A ~~Any~~ written contractual agreement must be disclosed  
447 in the ~~continuing care~~ contract for continuing care or  
448 continuing care at-home and is subject to the provisions of s.  
449 651.1151, relating to administrative, vendor, and management  
450 contracts.

451 (9)~~(7)~~ The office may ~~shall~~ not approve an application  
452 that ~~which~~ includes in the plan of financing any encumbrance of  
453 the operating reserves required by this chapter.

454 Section 7. Paragraphs (a) and (d) of subsection (3) of  
455 section 651.033, Florida Statutes, are amended to read:

456 651.033 Escrow accounts.—

457 (3) In addition, when entrance fees are required to be  
458 deposited in an escrow account pursuant to s. 651.022, s.  
459 651.023, or s. 651.055:

460 (a) The provider shall deliver to the resident a written  
461 receipt. The receipt must ~~shall~~ show the payor's name and

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462 address, the date, the price of the care contract, and the  
 463 amount of money paid. A copy of each receipt, together with the  
 464 funds, shall be deposited with the escrow agent or as provided  
 465 in paragraph (c). The escrow agent shall release such funds to  
 466 the provider ~~upon the expiration of~~ 7 days after the date of  
 467 receipt of the funds by the escrow agent if the provider,  
 468 operating under a certificate of authority issued by the office,  
 469 has met the requirements of s. 651.023(6)~~(4)~~. However, if the  
 470 resident rescinds the contract within the 7-day period, the  
 471 escrow agent shall release the escrowed fees to the resident.

472 (d) A provider may assess a nonrefundable fee, which is  
 473 separate from the entrance fee, for processing a prospective  
 474 resident's application for continuing care or continuing care  
 475 at-home.

476 Section 8. Subsections (2) and (3) of section 651.035,  
 477 Florida Statutes, are amended to read:

478 651.035 Minimum liquid reserve requirements.-

479 (2) (a) In facilities where not all residents are under  
 480 continuing care or continuing care at-home contracts, the  
 481 reserve requirements of subsection (1) shall be computed only  
 482 with respect to the proportional share of operating expenses  
 483 that ~~which~~ are applicable to residents ~~as defined in s. 651.011~~.  
 484 For purposes of this calculation, the proportional share shall  
 485 be based upon the ratio of residents under continuing care or  
 486 continuing care at-home contracts to those residents who do not  
 487 hold such contracts.

488 (b) In facilities that have voluntarily and permanently  
 489 discontinued marketing continuing care and continuing care at-

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490 home contracts, the office may allow a reduced debt service  
491 reserve as required in subsection (1) based upon the ratio of  
492 residents under continuing care or continuing care at-home  
493 contracts to those residents who do not hold such contracts if  
494 the office finds that such reduction is not inconsistent with  
495 the security protections intended by this chapter. In making  
496 this determination, the office may consider such factors as the  
497 financial condition of the facility, the provisions of ~~the~~  
498 outstanding continuing care and continuing care at-home  
499 contracts, the ratio of residents under continuing care or  
500 continuing care at-home contracts ~~agreements~~ to those residents  
501 who do not hold such contracts ~~a continuing care contract~~, the  
502 current occupancy rates, the previous sales and marketing  
503 efforts, the life expectancy of the remaining residents ~~contract~~  
504 ~~holders~~, and the written policies of the board of directors of  
505 the provider or a similar board.

506 (3) If principal and interest payments are paid to a trust  
507 that is beneficially held by the residents as described in s.  
508 651.023(7)~~(5)~~, the office may waive all or any portion of the  
509 escrow requirements for mortgage principal and interest  
510 contained in subsection (1) if the office finds that such waiver  
511 is not inconsistent with the security protections intended by  
512 this chapter.

513 Section 9. Section 651.055, Florida Statutes, is amended  
514 to read:

515 651.055 Continuing care contracts; right to rescind.—

516 (1) Each continuing care contract and each addendum to  
517 such contract shall be submitted to and approved by the office

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518 before ~~prior to~~ its use in this state. Thereafter, no other form  
519 of contract shall be used by the provider until ~~unless~~ it has  
520 been submitted to and approved by the office. Each contract must  
521 ~~shall~~:

522 (a) Provide for the continuing care of only one resident,  
523 or for two persons occupying space designed for double  
524 occupancy, under appropriate regulations established by the  
525 provider, and must ~~shall~~ list all properties transferred and  
526 their market value at the time of transfer, including donations,  
527 subscriptions, fees, and any other amounts paid or payable by,  
528 or on behalf of, the resident or residents.

529 (b) Specify all services that ~~which~~ are to be provided by  
530 the provider to each resident, including, in detail, all items  
531 that ~~which~~ each resident will receive, whether the items will be  
532 provided for a designated time period or for life, and whether  
533 the services will be available on the premises or at another  
534 specified location. The provider shall indicate which services  
535 or items are included in the contract for continuing care and  
536 which services or items are made available at or by the facility  
537 at extra charge. Such items ~~shall~~ include, but are not limited  
538 to, food, shelter, personal services or nursing care, drugs,  
539 burial, and incidentals.

540 (c) Describe the terms and conditions under which a  
541 contract for continuing care may be canceled by the provider or  
542 by a resident and the conditions, if any, under which all or any  
543 portion of the entrance fee will be refunded in the event of  
544 cancellation of the contract by the provider or by the resident,  
545 including the effect of any change in the health or financial

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546 condition of a person between the date of entering a contract  
547 for continuing care and the date of initial occupancy of a  
548 living unit by that person.

549 (d) Describe the health and financial conditions required  
550 for a person to be accepted as a resident and to continue as a  
551 resident, once accepted, including the effect of any change in  
552 the health or financial condition of the person between the date  
553 of submitting an application for admission to the facility and  
554 entering into a continuing care contract. If a prospective  
555 resident signs a contract but postpones moving into the  
556 facility, the individual is deemed to be occupying a unit at the  
557 facility when he or she pays the entrance fee or any portion of  
558 the fee, other than a reservation deposit, and begins making  
559 monthly maintenance fee payments. Such resident may rescind the  
560 contract and receive a full refund of any funds paid, without  
561 penalty or forfeiture, within 7 days after executing the  
562 contract as specified in subsection (2).

563 (e) Describe the circumstances under which the resident  
564 will be permitted to remain in the facility in the event of  
565 financial difficulties of the resident. The stated policy may  
566 not be less than the terms stated in s. 651.061.

567 (f) State the fees that will be charged if the resident  
568 marries while at the designated facility, the terms concerning  
569 the entry of a spouse to the facility, and the consequences if  
570 the spouse does not meet the requirements for entry.

571 (g) Provide that the contract may be canceled by giving at  
572 least 30 days' written notice of cancellation by the provider,  
573 the resident, or the person who provided the transfer of

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574 property or funds for the care of such resident. However, if a  
575 contract is canceled because there has been a good faith  
576 determination that a resident is a danger to himself or herself  
577 or others, only such notice as is reasonable under the  
578 circumstances is required.

579 1. The contract must also provide in clear and  
580 understandable language, in print no smaller than the largest  
581 type used in the body of the contract, the terms governing the  
582 refund of any portion of the entrance fee.

583 2. For a resident whose contract with the facility  
584 provides that the resident does not receive a transferable  
585 membership or ownership right in the facility, and who has  
586 occupied his or her unit, the refund shall be calculated on a  
587 pro rata basis with the facility retaining up to 2 percent per  
588 month of occupancy by the resident and up to a 5 percent ~~5-~~  
589 ~~percent~~ processing fee. Such refund must be paid within 120 days  
590 after giving the notice of intention to cancel.

591 3. In addition to a processing fee, if the contract  
592 provides for the facility to retain up to 1 percent per month of  
593 occupancy by the resident, it may provide that such refund will  
594 be paid from the proceeds of the next entrance fees received by  
595 the provider for units for which there are no prior claims by  
596 any resident until paid in full or, if the provider has  
597 discontinued marketing continuing care contracts, within 200  
598 days after the date of notice.

599 4. Unless subsection (5) applies, for any prospective  
600 resident, regardless of whether or not such a resident receives  
601 a transferable membership or ownership right in the facility,

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602 who cancels the contract before occupancy of the unit, the  
603 entire amount paid toward the entrance fee shall be refunded,  
604 less a processing fee of up to 5 percent of the entire entrance  
605 fee; however, the processing fee may not exceed the amount paid  
606 by the prospective resident. Such refund must be paid within 60  
607 days after giving ~~the~~ notice of intention to cancel. For a  
608 resident who has occupied his or her unit and who has received a  
609 transferable membership or ownership right in the facility, the  
610 foregoing refund provisions do not apply but are deemed  
611 satisfied by the acquisition or receipt of a transferable  
612 membership or an ownership right in the facility. The provider  
613 may not charge any fee for the transfer of membership or sale of  
614 an ownership right. A prospective resident, resident, or  
615 resident's estate is not entitled to interest of any type on a  
616 deposit or entrance fee unless it is specified in the continuing  
617 care contract.

618 (h) State the terms under which a contract is canceled by  
619 the death of the resident. These terms may contain a provision  
620 that, upon the death of a resident, the entrance fee of such  
621 resident is ~~shall be~~ considered earned and becomes ~~shall become~~  
622 the property of the provider. If ~~When~~ the unit is shared, the  
623 conditions with respect to the effect of the death or removal of  
624 one of the residents must ~~shall~~ be included in the contract.

625 (i) Describe the policies that ~~which~~ may lead to changes  
626 in monthly recurring and nonrecurring charges or fees for goods  
627 and services received. The contract must ~~shall~~ provide for  
628 advance notice to the resident, of at least ~~not less than~~ 60  
629 days, before any change in fees or charges or the scope of care

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630 or services is ~~may be~~ effective, except for changes required by  
631 state or federal assistance programs.

632 (j) Provide that charges for care paid in one lump sum may  
633 ~~shall~~ not be increased or changed during the duration of the  
634 agreed upon care, except for changes required by state or  
635 federal assistance programs.

636 (k) Specify whether ~~or not~~ the facility is, or is  
637 affiliated with, a religious, nonprofit, or proprietary  
638 organization or management entity; the extent to which the  
639 affiliate organization will be responsible for the financial and  
640 contractual obligations of the provider; and the provisions of  
641 the federal Internal Revenue Code, if any, under which the  
642 provider or affiliate is exempt from the payment of federal  
643 income tax.

644 (2) A resident has the right to rescind a continuing care  
645 contract and receive a full refund of any funds paid, without  
646 penalty or forfeiture, within 7 days after executing the  
647 contract. A resident may not be required to move into the  
648 facility designated in the contract before the expiration of the  
649 7-day period. During the 7-day period, the resident's funds must  
650 be held in an escrow account unless otherwise requested by the  
651 resident pursuant to s. 651.033(3)(c).

652 (3) The contract must ~~shall~~ include or ~~shall~~ be  
653 accompanied by a statement, printed in boldfaced type, which  
654 reads: "This facility and all other continuing care facilities  
655 in the State of Florida are regulated by chapter 651, Florida  
656 Statutes. A copy of the law is on file in this facility. The law  
657 gives you or your legal representative the right to inspect our



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658 most recent financial statement and inspection report before  
659 signing the contract."

660 (4) Before the transfer of any money or other property to  
661 a provider by or on behalf of a prospective resident, the  
662 provider shall present a typewritten or printed copy of the  
663 contract to the prospective resident and all other parties to  
664 the contract. The provider shall secure a signed, dated  
665 statement from each party to the contract certifying that a copy  
666 of the contract with the specified attachment, as required  
667 pursuant to this chapter, was received.

668 (5) Except for a resident who postpones moving into the  
669 facility but is deemed to have occupied a unit as described in  
670 paragraph (1)(d), if a prospective resident dies before  
671 occupying the facility or, through illness, injury, or  
672 incapacity, is precluded from becoming a resident under the  
673 terms of the continuing care contract, the contract is  
674 automatically canceled, and the prospective resident or his or  
675 her legal representative shall receive a full refund of all  
676 moneys paid to the facility, except those costs specifically  
677 incurred by the facility at the request of the prospective  
678 resident and set forth in writing in a separate addendum, signed  
679 by both parties, to the contract.

680 (6) In order to comply with this section, a provider may  
681 furnish information not contained in his or her continuing care  
682 contract through an addendum.

683 (7) Contracts to provide continuing care, including  
684 contracts that are terminable by either party, may include  
685 agreements to provide care for any duration.

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686 (8) (7) Those contracts entered into after ~~subsequent to~~  
687 July 1, 1977, and before the issuance of a certificate of  
688 authority to the provider are valid and binding upon both  
689 parties in accordance with their terms. Within 30 days of  
690 receipt of a letter from the office notifying the provider of a  
691 noncompliant residency contract, the provider shall file a new  
692 residency contract for approval that complies with Florida law.  
693 Pending review and approval of the new residency contract, the  
694 provider may continue to use the previously-approved contract.

695 (9) (8) The provisions of this section ~~shall~~ control over  
696 any conflicting provisions contained in part II of chapter 400  
697 or in part I of chapter 429.

698 Section .10. Section 651.057, Florida Statutes, is created  
699 to read:

700 651.057 Continuing care at-home contracts.-

701 (1) In addition to the requirements of s. 651.055, a  
702 provider offering contracts for continuing care at-home must:

703 (a) Disclose the following in the continuing care at-home  
704 contract:

705 1. Whether transportation will be provided to residents  
706 when traveling to and from the facility for services;

707 2. That the provider has no liability for residents  
708 residing outside the facility beyond the delivery of services  
709 specified in the contract and future access to nursing care or  
710 personal services at the facility or in another setting  
711 designated in the contract;

712 3. The mechanism for monitoring residents who live outside  
713 the facility;

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714 4. The process that will be followed to establish priority  
715 if a resident wishes to exercise his or her right to move into  
716 the facility; and

717 5. The policy that will be followed if a resident living  
718 outside the facility relocates to a different residence and no  
719 longer avails himself or herself of services provided by the  
720 facility.

721 (b) Ensure that persons employed by or under contract with  
722 the provider who assist in the delivery of services to residents  
723 residing outside the facility are appropriately licensed or  
724 certified as required by law.

725 (c) Include operating expenses for continuing care at-home  
726 contracts in the calculation of the operating reserve required  
727 by s. 651.035(1)(c).

728 (d) Include the operating activities for continuing care  
729 at-home contracts in the total operation of the facility when  
730 submitting financial reports to the office as required by s.  
731 651.026.

732 (2) A provider that holds a certificate of authority and  
733 wishes to offer continuing care at-home must also:

734 (a) Submit a business plan to the office with the  
735 following information:

736 1. A description of the continuing care at-home services  
737 that will be provided, the market to be served, and the fees to  
738 be charged;

739 2. A copy of the proposed continuing care at-home  
740 contract;

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741 | 3. An actuarial study prepared by an independent actuary  
742 | in accordance with the standards adopted by the American Academy  
743 | of Actuaries which presents the impact of providing continuing  
744 | care at-home on the overall operation of the facility;

745 | 4. A market feasibility study that meets the requirements  
746 | of s. 651.022(3) and documents that there is sufficient interest  
747 | in continuing care at-home contracts to support such a program;  
748 | and

749 | (b) Demonstrate to the office that the proposal to offer  
750 | continuing care at-home contracts to individuals who do not  
751 | immediately move into the facility will not place the provider  
752 | in an unsound financial condition;

753 | (c) Comply with the requirements of s. 651.021(2), except  
754 | that an actuarial study may be substituted for the feasibility  
755 | study; and

756 | (d) Comply with the requirements of this chapter.

757 | (3) Contracts to provide continuing care at-home,  
758 | including contracts that are terminable by either party, may  
759 | include agreements to provide care for any duration.

760 | (4) A provider offering continuing care at-home contracts  
761 | must, at a minimum, have a facility that is licensed under this  
762 | chapter and has accommodations for independent living which are  
763 | primarily intended for residents who do not require staff  
764 | supervision. The facility need not offer assisted living units  
765 | licensed under part I of chapter 429 or nursing home units  
766 | licensed under part II of chapter 400 in order to be able to  
767 | offer continuing care at-home contracts.

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768 (a) The combined number of outstanding continuing care  
769 (CCRC) and continuing care at-home (CAAH) contracts allowed at  
770 the facility may be the greater of:

771 1. One and one-half times the combined number of  
772 independent living units (ILU), assisted living units (ALF) that  
773 are licensed under part I of chapter 429, and nursing home units  
774 licensed under part II of chapter 400 at the facility; or

775 2. Four times the combined number of assisted living units  
776 (ALF) that are licensed under part I of chapter 429 and nursing  
777 home units that are licensed under part II of chapter 400 at  
778 that facility.

779 (b) The number of independent living units at the facility  
780 must be equal to or greater than 10 percent of the initial 100  
781 continuing care (CCRC) and continuing care at-home (CAAH)  
782 contracts and 5 percent of the combined number of outstanding  
783 continuing care (CCRC) and continuing care at home (CAAH)  
784 contracts in excess of 100 issued by that facility.

785 Section 11. Subsection (1) of section 651.071, Florida  
786 Statutes, is amended to read:

787 651.071 Contracts as preferred claims on liquidation or  
788 receivership.—

789 (1) In the event of receivership or liquidation  
790 proceedings against a provider, all continuing care and  
791 continuing care at-home contracts executed by a provider shall  
792 be deemed preferred claims against all assets owned by the  
793 provider; however, such claims are ~~shall be~~ subordinate to those  
794 priority claims set forth in s. 631.271 and any secured claim ~~as~~  
795 ~~defined in s. 631.011.~~

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796 Section 12. Paragraph (h) of subsection (2) and subsection  
797 (3) of section 651.091, Florida Statutes, are amended to read:

798 651.091 Availability, distribution, and posting of reports  
799 and records; requirement of full disclosure.-

800 (2) Every continuing care facility shall:

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

805 (3) Before entering into a contract to furnish continuing  
806 care or continuing care at-home, the provider undertaking to  
807 furnish the care, or the agent of the provider, shall make full  
808 disclosure, and provide copies of the disclosure documents to  
809 the prospective resident or his or her legal representative, of  
810 the following information:

811 (a) The contract to furnish continuing care or continuing  
812 care at-home.

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

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

816 (d) In keeping with the intent of this subsection relating  
817 to disclosure, the provider shall make available for review,  
818 master plans approved by the provider's governing board and any  
819 plans for expansion or phased development, to the extent that  
820 the availability of such plans do will not put at risk real  
821 estate, financing, acquisition, negotiations, or other  
822 implementation of operational plans and thus jeopardize the  
823 success of negotiations, operations, and development.

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824 (e) Copies of the rules and regulations of the facility  
825 and an explanation of the responsibilities of the resident.

826 (f) The policy of the facility with respect to admission  
827 to and discharge from the various levels of health care offered  
828 by the facility.

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

833 (h) A copy of s. 651.071.

834 (i) A copy of the resident's rights as described in s.  
835 651.083.

836 Section 13. Section 651.106, Florida Statutes, is amended  
837 to read:

838 651.106 Grounds for discretionary refusal, suspension, or  
839 revocation of certificate of authority.—The office, ~~in its~~  
840 ~~discretion,~~ may deny, suspend, or revoke the provisional  
841 certificate of authority or the certificate of authority of any  
842 applicant or provider if it finds that any one or more of the  
843 following grounds applicable to the applicant or provider exist:

844 (1) Failure by the provider to continue to meet the  
845 requirements for the authority originally granted.

846 (2) Failure by the provider to meet one or more of the  
847 qualifications for the authority specified by this chapter.

848 (3) Material misstatement, misrepresentation, or fraud in  
849 obtaining the authority, or in attempting to obtain the same.

850 (4) Demonstrated lack of fitness or trustworthiness.

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851 (5) Fraudulent or dishonest practices of management in the  
852 conduct of business.

853 (6) Misappropriation, conversion, or withholding of  
854 moneys.

855 (7) Failure to comply with, or violation of, any proper  
856 order or rule of the office or commission or violation of any  
857 provision of this chapter.

858 (8) The insolvent condition of the provider or the  
859 provider's being in such condition or using such methods and  
860 practices in the conduct of its business as to render its  
861 further transactions in this state hazardous or injurious to the  
862 public.

863 (9) Refusal by the provider to be examined or to produce  
864 its accounts, records, and files for examination, or refusal by  
865 any of its officers to give information with respect to its  
866 affairs or to perform any other legal obligation under this  
867 chapter when required by the office.

868 (10) Failure by the provider to comply with the  
869 requirements of s. 651.026 or s. 651.033.

870 (11) Failure by the provider to maintain escrow accounts  
871 or funds as required by this chapter.

872 (12) Failure by the provider to meet the requirements of  
873 this chapter for disclosure of information to residents  
874 concerning the facility, its ownership, its management, its  
875 development, or its financial condition or failure to honor its  
876 continuing care or continuing care at-home contracts.



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877 (13) Any cause for which issuance of the license could  
878 have been refused had it then existed and been known to the  
879 office.

880 (14) Having been found guilty of, or having pleaded guilty  
881 or nolo contendere to, a felony in this state or any other  
882 state, without regard to whether a judgment or conviction has  
883 been entered by the court having jurisdiction of such cases.

884 (15) In the conduct of business under the license,  
885 engaging in unfair methods of competition or in unfair or  
886 deceptive acts or practices prohibited under part IX of chapter  
887 626.

888 (16) A pattern of bankrupt enterprises.

889

890 Revocation of a certificate of authority under this section does  
891 not relieve a provider from the provider's obligation to  
892 residents under the terms and conditions of any continuing care  
893 or continuing care at-home contract between the provider and  
894 residents or the provisions of this chapter. The provider shall  
895 continue to file its annual statement and pay license fees to  
896 the office as required under this chapter as if the certificate  
897 of authority had continued in full force, but the provider shall  
898 not issue any new ~~continuing care~~ contracts. The office may seek  
899 an action in the circuit court of Leon County to enforce the  
900 office's order and the provisions of this section.

901 Section 14. Subsection (8) of section 651.114, Florida  
902 Statutes, is amended to read:

903 651.114 Delinquency proceedings; remedial rights.-

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904 (8) (a) The rights of the office described in this section  
905 are shall be subordinate to the rights of a trustee or lender  
906 pursuant to the terms of a resolution, ordinance, loan  
907 agreement, indenture of trust, mortgage, lease, security  
908 agreement, or other instrument creating or securing bonds or  
909 notes issued to finance a facility, and the office, subject to  
910 the provisions of paragraph (c), shall not exercise its remedial  
911 rights provided under this section and ss. 651.018, 651.106,  
912 651.108, and 651.116 with respect to a facility that is subject  
913 to a lien, mortgage, lease, or other encumbrance or trust  
914 indenture securing bonds or notes issued in connection with the  
915 financing of the facility, if the trustee or lender, by  
916 inclusion or by amendment to the loan documents or by a separate  
917 contract with the office, agrees that the rights of residents  
918 under a continuing care or continuing care at-home contract will  
919 be honored and will not be disturbed by a foreclosure or  
920 conveyance in lieu thereof as long as the resident:

921 1. Is current in the payment of all monetary obligations  
922 required by the ~~continuing care~~ contract;

923 2. Is in compliance and continues to comply with all  
924 provisions of the ~~resident's continuing care~~ contract; and

925 3. Has asserted no claim inconsistent with the rights of  
926 the trustee or lender.

927 (b) ~~Nothing in~~ This subsection does not require ~~requires~~ a  
928 trustee or lender to:

929 1. Continue to engage in the marketing or resale of new  
930 continuing care or continuing care at-home contracts;

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931           2. Pay any rebate of entrance fees as may be required by a  
932 resident's continuing care or continuing care at-home contract  
933 as of the date of acquisition of the facility by the trustee or  
934 lender and until expiration of the period described in paragraph  
935 (d);

936           3. Be responsible for any act or omission of any owner or  
937 operator of the facility arising before ~~prior to~~ the acquisition  
938 of the facility by the trustee or lender; or

939           4. Provide services to the residents to the extent that  
940 the trustee or lender would be required to advance or expend  
941 funds that have not been designated or set aside for such  
942 purposes.

943           (c) Should the office determine, at any time during the  
944 suspension of its remedial rights as provided in paragraph (a),  
945 that the trustee or lender is not in compliance with ~~the~~  
946 ~~provisions of~~ paragraph (a), or that a lender or trustee has  
947 assigned or has agreed to assign all or a portion of a  
948 delinquent or defaulted loan to a third party without the  
949 office's written consent, the office shall notify the trustee or  
950 lender in writing of its determination, setting forth the  
951 reasons giving rise to the determination and specifying those  
952 remedial rights afforded to the office which the office shall  
953 then reinstate.

954           (d) Upon acquisition of a facility by a trustee or lender  
955 and evidence satisfactory to the office that the requirements of  
956 paragraph (a) have been met, the office shall issue a 90-day  
957 temporary certificate of authority granting the trustee or  
958 lender the authority to engage in the business of providing

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959 continuing care or continuing care at-home and to issue  
960 continuing care or continuing care at-home contracts subject to  
961 the office's right to immediately suspend or revoke the  
962 temporary certificate of authority if the office determines that  
963 any of the grounds described in s. 651.106 apply to the trustee  
964 or lender or that the terms of the contract agreement used as  
965 the basis for the issuance of the temporary certificate of  
966 authority by the office have not been or are not being met by  
967 the trustee or lender since the date of acquisition.

968 Section 15. Subsections (4), (7), (9), and (11) of section  
969 651.118, Florida Statutes, are amended to read:

970 651.118 Agency for Health Care Administration;  
971 certificates of need; sheltered beds; community beds.-

972 (4) Not including the residences of residents residing  
973 outside the facility pursuant to a continuing care at-home  
974 contract, the Agency for Health Care Administration shall  
975 approve one sheltered nursing home bed for every four proposed  
976 residential units, including those that are licensed under part  
977 I of chapter 429, in the continuing care facility unless the  
978 provider demonstrates the need for a lesser number of sheltered  
979 nursing home beds based on proposed utilization by prospective  
980 residents or demonstrates the need for additional sheltered  
981 nursing home beds based on actual utilization and demand by  
982 current residents.

983 (7) Notwithstanding ~~the provisions of~~ subsection (2), at  
984 the discretion of the ~~continuing care~~ provider, sheltered  
985 nursing home beds may be used for persons who are not residents  
986 of the continuing care facility and who are not parties to a

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987 continuing care contract for ~~a period of~~ up to 5 years after the  
988 date of issuance of the initial nursing home license. A provider  
989 whose 5-year period has expired or is expiring may request an  
990 extension from the Agency for Health Care Administration ~~for an~~  
991 ~~extension~~, not to exceed 30 percent of the total sheltered  
992 nursing home beds or 30 sheltered beds, whichever is greater, if  
993 the utilization by residents of the nursing home facility in the  
994 sheltered beds will not generate sufficient income to cover  
995 nursing home facility expenses, as evidenced by one of the  
996 following:

997 (a) The nursing home facility has a net loss for the most  
998 recent fiscal year as determined under generally accepted  
999 accounting principles, excluding the effects of extraordinary or  
1000 unusual items, as demonstrated in the most recently audited  
1001 financial statement. ~~or~~

1002 (b) The nursing home facility would have had a pro forma  
1003 loss for the most recent fiscal year, excluding the effects of  
1004 extraordinary or unusual items, if revenues were reduced by the  
1005 amount of revenues from persons in sheltered beds who were not  
1006 residents, as reported ~~on~~ by a certified public accountant.

1007

1008 The Agency for Health Care Administration may ~~shall be~~  
1009 ~~authorized to~~ grant an extension to the provider based on the  
1010 evidence required in this subsection. The Agency for Health Care  
1011 Administration may request a continuing care facility to use up  
1012 to 25 percent of the patient days generated by new admissions of  
1013 nonresidents during the extension period to serve Medicaid  
1014 recipients for those beds authorized for extended use if there

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1015 is a demonstrated need in the respective service area and if  
 1016 funds are available. A provider who obtains an extension is  
 1017 prohibited from applying for additional sheltered beds under ~~the~~  
 1018 ~~provision of~~ subsection (2), unless additional residential units  
 1019 are built or the provider can demonstrate need by continuing  
 1020 care facility residents to the Agency for Health Care  
 1021 Administration. The 5-year limit does not apply to up to five  
 1022 sheltered beds designated for inpatient hospice care as part of  
 1023 a contractual arrangement with a hospice licensed under part IV  
 1024 of chapter 400. A continuing care facility that uses such beds  
 1025 after the 5-year period shall report such use to the Agency for  
 1026 Health Care Administration. For purposes of this subsection,  
 1027 "resident" means a person who, upon admission to the continuing  
 1028 care facility, initially resides in a part of the continuing  
 1029 care facility not licensed under part II of chapter 400, or who  
 1030 contracts for continuing care at-home.

1031 (9) This section does not preclude a ~~continuing care~~  
 1032 provider from applying to the Agency for Health Care  
 1033 Administration for a certificate of need for community nursing  
 1034 home beds or a combination of community and sheltered nursing  
 1035 home beds. Any nursing home bed located in a continuing care  
 1036 facility which ~~that~~ is or has been issued for nonrestrictive use  
 1037 retains ~~shall retain~~ its legal status as a community nursing  
 1038 home bed unless the provider requests a change in status. Any  
 1039 nursing home bed located in a continuing care facility and not  
 1040 issued as a sheltered nursing home bed before ~~prior to~~ 1979 must  
 1041 be classified as a community bed. The Agency for Health Care  
 1042 Administration may require continuing care facilities to submit

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1043 bed utilization reports for the purpose of determining community  
1044 and sheltered nursing home bed inventories based on historical  
1045 utilization by residents and nonresidents.

1046 (11) For a provider issued a provisional certificate of  
1047 authority after July 1, 1986, to operate a facility not  
1048 previously regulated under this chapter, the following criteria  
1049 must ~~shall~~ be met in order to obtain a certificate of need for  
1050 sheltered beds pursuant to subsections (2), (3), (4), (5), (6),  
1051 and (7):

1052 (a) Seventy percent or more of the current residents hold  
1053 continuing care or continuing care at-home contracts ~~agreements~~  
1054 ~~pursuant to s. 651.011(2)~~ or, if the facility is not occupied,  
1055 70 percent or more of the prospective residents will hold such  
1056 contracts ~~continuing care agreements pursuant to s. 651.011(2)~~  
1057 as projected in the feasibility study and demonstrated by the  
1058 provider's marketing practices; and

1059 (b) The continuing care or continuing care at-home  
1060 contracts ~~agreements~~ entered into or to be entered into by 70  
1061 percent or more of the current residents or prospective  
1062 residents must ~~pursuant to s. 651.011(2)~~ shall provide nursing  
1063 home care for a minimum of 360 cumulative days, and such  
1064 residents ~~the holders of the continuing care agreements~~ shall be  
1065 charged at rates that ~~which~~ are 80 percent or less than the  
1066 rates charged by the provider to persons receiving nursing home  
1067 care who have not entered into such contracts ~~continuing care~~  
1068 ~~agreements pursuant to s. 651.011(2)~~.

1069 Section 16. Subsection (1) of section 651.121, Florida  
1070 Statutes, is amended to read:

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1071 | 651.121 Continuing Care Advisory Council.—

1072 | (1) The Continuing Care Advisory Council to the office is  
1073 | created consisting ~~to consist~~ of 10 members who are residents of  
1074 | this state appointed by the Governor and geographically  
1075 | representative of this state. Three members shall be  
1076 | administrators of facilities that hold valid certificates of  
1077 | authority under this chapter and shall have been actively  
1078 | engaged in the offering of continuing care contracts ~~agreements~~  
1079 | in this state for 5 years before appointment. The remaining  
1080 | members include:

1081 | (a) A representative of the business community whose  
1082 | expertise is in the area of management.

1083 | (b) A representative of the financial community who is not  
1084 | a facility owner or administrator.

1085 | (c) A certified public accountant.

1086 | (d) An attorney.

1087 | (e) Three residents who hold continuing care or continuing  
1088 | care at-home contracts ~~agreements~~ with a facility certified in  
1089 | this state.

1090 | Section 17. Subsection (1) of section 651.125, Florida  
1091 | Statutes, is amended to read:

1092 | 651.125 Criminal penalties; injunctive relief.—

1093 | (1) Any person who maintains, enters into, or, as manager  
1094 | or officer or in any other administrative capacity, assists in  
1095 | entering into, maintaining, or performing any continuing care or  
1096 | continuing care at-home contract ~~agreement~~ subject to this  
1097 | chapter without doing so in pursuance of a valid certificate of  
1098 | authority or renewal thereof, as contemplated by or provided in



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1099 | this chapter, or who otherwise violates any provision of this  
1100 | chapter or rule adopted in pursuance of this chapter, is guilty  
1101 | of a felony of the third degree, punishable as provided in s.  
1102 | 775.082 or s. 775.083. Each violation of this chapter  
1103 | constitutes a separate offense.

1104 |       Section 18. This act shall take effect July 1, 2011.  
1105 |  
1106 |

1107 | -----

1108 |                                   **T I T L E   A M E N D M E N T**

1109 | Remove the entire title and insert:

1110 |                                   A bill to be entitled

1111 | An act relating to continuing care retirement communities;  
1112 | providing for the provision of continuing care at-home;  
1113 | amending s. 651.011, F.S.; revising definitions; defining  
1114 | "continuing care at-home," "nursing care," "personal  
1115 | services," and "shelter"; amending s. 651.012, F.S.;  
1116 | conforming a cross-reference; amending s. 651.013, F.S.;  
1117 | conforming provisions to changes made by the act; amending  
1118 | s. 651.021, F.S., relating to the requirement for  
1119 | certificates of authority; requiring that a person in the  
1120 | business of issuing continuing care at-home contracts  
1121 | obtain a certificate of authority from the Office of  
1122 | Insurance Regulation; requiring written approval from the  
1123 | Office of Insurance Regulation for a 20 percent or more  
1124 | expansion in the number of continuing care at-home  
1125 | contracts; providing that an actuarial study may be  
1126 | substituted for a feasibility study in specified

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1127 | circumstances; amending s. 651.022, F.S., relating to  
 1128 | provisional certificates of authority; conforming  
 1129 | provisions to changes made by the act; amending s.  
 1130 | 651.023, F.S., relating to an application for a  
 1131 | certificate of authority; specifying the content of the  
 1132 | feasibility study that is included in the application for  
 1133 | a certificate; requiring the same minimum reservation  
 1134 | requirements for continuing care at-home contracts as  
 1135 | continuing care contracts; requiring that a certain amount  
 1136 | of the entrance fee collected for contracts resulting from  
 1137 | an expansion be placed in an escrow account or on deposit  
 1138 | with the department; amending ss. 651.033, 651.035, and  
 1139 | 651.055, F.S.; requiring a facility to provide proof of  
 1140 | compliance with a residency contract; conforming  
 1141 | provisions to changes made by the act; creating s.  
 1142 | 651.057, F.S.; providing additional requirements for  
 1143 | continuing care at-home contracts; requiring that a  
 1144 | provider who wishes to offer continuing care at-home  
 1145 | contracts submit certain additional documents to the  
 1146 | office; requiring that the provider comply with certain  
 1147 | requirements; limiting the number of continuing care and  
 1148 | continuing care at-home contracts at a facility based on  
 1149 | the types of units at the facility; amending ss. 651.071,  
 1150 | 651.091, 651.106, 651.114, 651.118, 651.121, and 651.125,  
 1151 | F.S.; conforming provisions to changes made by the act;  
 1152 | providing an effective date.

**COMMITTEE MEETING REPORT**  
**Health & Human Services Quality Subcommittee**

**4/6/2011 8:00:00AM**

**Location:** 306 HOB

**HB 1289 : Medicaid Eligibility**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jim Boyd	X				
Richard Corcoran			X		
Jose Diaz	X				
Matt Gaetz	X				
Eduardo Gonzalez	X				
Matt Hudson	X				
Larry Metz	X				
Mark Pafford		X			
Scott Randolph		X			
Betty Reed			X		
Ronald Renuart				X	
Patrick Rooney, Jr.	X				
Elaine Schwartz		X			
Dwayne Taylor			X		
John Wood (Chair)	X				
<b>Total Yeas: 8      Total Nays: 3</b>					

**HB 1289 Amendments**

**Amendment 1**

*Adopted Without Objection*

**Appearances:**

Close Loopholes MCD Eligibility Process  
 Fijalkowski, Melissa (General Public) - Proponent  
 FHCA  
 5546 Berrybrook Cer  
 Pace FL 32571  
 Phone: (850) 232-7790

Medicaid  
 Haselden, Barbara (General Public) - Proponent  
 Self  
 1043 31st Terrace NE  
 St Petersburg FL 33704  
 Phone: (727) 709-7039

Committee meeting was reported out: Wednesday, April 06, 2011 3:04:09PM

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>  Y  </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

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1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Quality Subcommittee  
3 Representative(s) Ahern offered the following:

4  
5 **Amendment**

6 Remove line 111 and insert:

7 Section 2. This act shall take effect upon becoming a law.