Committee on Children, Families, and Elder Affairs

CS/CS/HB 1037 — Continuing Care Retirement Communities

by Health and Human Services Committee; Health and Human Services Quality Subcommittee; Reps. Bembry and Passidomo; and others (CS/SB 1340 by Children, Families, and Elder Affairs Committee and Senator Bogdanoff)

This bill authorizes the use of continuing care at-home contracts in order to allow individuals to receive services offered by a continuing care retirement community (CCRCs) in their own homes while reserving the right to shelter to be provided by the CCRC at a later date.

The bill defines the term "continuing care at-home" to mean "pursuant to a contract other than a contract described in subsection (2) [relating to continuing care], furnishing to a resident who resides outside the facility the right to future access to shelter and nursing care or personal services, whether such services are provided in the facility or in another setting designated in the contract, by an individual not related by consanguinity or affinity to the resident, upon payment of an entrance fee."

The bill creates s. 651.057, F.S., to govern continuing care at-home (CCAH) contracts and provides requirements for providers offering CCAH contracts.

Section 651.021, F.S., is amended to require written approval from the Office of Insurance Regulation (OIR) before constructing a new facility or marketing the expansion of an existing facility equivalent to the addition of at least 20 percent of existing units or 20 percent or more in the number of CCAH contracts.

The bill amends s. 651.023, F.S., to provide that if a feasibility study is prepared by an independent certified public accountant, it must contain an examination opinion for the first three years of operations and financial projections having a compilation opinion for the next three years. If the feasibility study is prepared by an independent consulting actuary, it must contain mortality and morbidity data and an actuary's signed opinion that the project as proposed is feasible and that the study has been prepared in accordance with standards adopted by the American Academy of Actuaries.

A certificate of authority may not be issued until the CCRC project has a minimum of 50 percent of the units reserved and proof is provided to OIR. The bill provides that if a provider offering CCAH contracts is applying for a certificate of authority or approval of an expansion, then the same minimum reservation requirements must be met for the continuing care and CCAH contracts, independently of each other.

The bill further provides that for an expansion of a continuing care facility or CCAH contracts, a minimum of 75 percent of the moneys paid for all or any part of an initial entrance fee for continuing care and 50 percent of the moneys paid for all or any part of the initial fee collected for CCAH shall be placed in an escrow account or on deposit with the department. Additionally, a provider is entitled to secure release of moneys held in escrow if, among other things, the

consultant who prepared the feasibility study (or an approved substitute) certifies *within 12 months before the date of filing for office approval* that there has been no material adverse change in status with regard to the study.

The bill amends s. 651.055, F.S., to provide that a prospective resident, resident, or resident's estate is not entitled to interest of any kind on a deposit or entrance fee unless specifically provided for in the continuing care contract. The bill permits contracts for continuing care and CCAH to include agreements to provide care for any duration. The bill also requires a provider to file a new residency contract for approval within 30 days after receipt of a letter from OIR notifying the provider of a noncompliant residency contract. The bill provides that pending review and approval of the new residency contract, the provider may continue to use the previously approved contract.

The bill amends s. 651.118, F.S., to provide that the Agency for Health Care Administration (AHCA) does not need to approve sheltered nursing home beds for the residences of residents living outside the facility pursuant to a CCAH contract.

If approved by the Governor, these provisions take effect July 1, 2011.
Vote: Senate 39-0; House 114-0

Committee on Children, Families, and Elder Affairs

CS/CS/SB 1366 — Child Welfare/Mental Health/Substance Abuse

by Health Regulation Committee; Children, Families, and Elder Affairs Committee and Senator Storms

The bill includes managing entities and the agencies that have contracted with monitoring agents among the entities who must identify and implement changes that improve the efficiency of administrative monitoring of child welfare services and the efficiency of administrative, licensure, and programmatic monitoring of mental health and substance abuse service providers.

To improve efficiency, these entities must limit administrative monitoring to once every three years if the provider of child welfare services is accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Council on Accreditation (COA), and must limit administrative, licensure, and programmatic monitoring to once every three years if the provider of mental health or substance abuse services is accredited by these entities.

The bill provides that the limitations on administrative, licensure, and programmatic monitoring apply only to providers of mental health or substance abuse services that are accredited for the services being monitored and, despite the limitations on such monitoring, these entities may continue to monitor the service provider as to specified areas of concern.

These entities must also allow the private sector to develop and implement an Internet-based, secure, and consolidated data warehouse and archive for maintaining certain records of providers of child welfare, mental health, or substance abuse services and the entities must use the data warehouse to request documents.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 36-0; House 116-0

Committee on Children, Families, and Elder Affairs

CS/SB 1992 — Background Screening

by Budget Committee; Children, Families, and Elder Affairs Committee; and Senator Storms

The bill makes a number of changes to background screening requirements, primarily pertaining to individuals who work with Florida's vulnerable populations. Those changes include:

- Exempting from fingerprinting and screening requirements, mental health personnel working in a facility licensed under ch. 395, F.S., who work on an intermittent basis for less than 15 hours a week of direct, face-to-face contact with patients, except that individuals working in a mental health facility where the primary purpose is the mental health treatment of minors must be fingerprinted and meet screening requirements;
- Revising the list of professionals to include law enforcement officers so that officers are not required to be refingerprinted or rescreened if they are working or volunteering in a capacity that would otherwise require them to be screened;
- Exempting, from the definition of "direct service provider;" individuals who are related to the client, the client's spouse, and volunteers who assist on an intermittent basis for less than 20 hours of direct, face-to-face contact with a client per month;
- Exempting, from any additional Level 2 background screening requirements, an individual who was background screened pursuant to an Agency for Health Care Administration (AHCA) licensure requirement if they are providing a service within the scope of their licensed practice;
- Allowing the Department of Elderly Affairs (DOEA) to adopt rules to implement a schedule to phase in the background screening of individuals serving as direct service providers on July 31, 2010. The phase in must be completed by July 1, 2012;
- Specifying that employers of direct service providers previously qualified for employment or volunteer work under Level 1 screening standards, and individuals required to be screened according to the Level 2 screening standards, shall be rescreened every five years, except in cases where fingerprints are electronically retained and monitored by the Department of Law Enforcement (FDLE);
- Removing a provision relating to criminal offenses that was inadvertently applied to theDOEA;
- Requiring fingerprint vendors to meet certain technology requirements;
- Establishing a July 1, 2013, date for retention of prints for persons screened under ch. 435, F.S.;
- Allowing an employer to hire an employee for the purpose of training and orientation before the employee completes the screening process. The employee may not have direct contact with vulnerable persons until the screening process is complete;
- Providing personnel of a qualified entity, as defined in ch. 943, F.S., with the ability toapply for an exemption from disqualification from being employed;
- Establishing a rescreening schedule for individuals required by the AHCA to be screened;
- Requiring the Board of Nursing to waive background screening requirements for certain certified nursing assistants; and

- Requiring the Department of Children and Family Services, the Department of Juvenile Justice, the AHCA, the DOEA, the Department of Health, the Agency for Persons with Disabilities, and the Department of Law Enforcement to establish a statewide background screening workgroup, providing duties of the workgroup, and requiring a report to the Legislature by November 1, 2011.

If approved by the Governor, these provisions take effect July 1, 2011.
Vote: Senate 39-0; House 106-0

Committee on Children, Families, and Elder Affairs

CS/HB 4045 — Assisted Living Facilities

by Health and Human Services Committee and Rep. Hudson and others (CS/HB 692 by Rules Committee and Senator Richter)

This bill makes several changes to provisions of law relating to assisted living facilities (ALFs).

The bill amends s. 429.19, F.S., to remove the requirement that the Agency for Health Care Administration (AHCA or agency) develop and disseminate an annual list of ALFs sanctioned or fined for violations of state standards. The bill also eliminates language providing that AHCA may provide the information electronically or on its website. While the bill eliminates the requirement that AHCA publish this annual list, the agency would still have the discretion to do so if it wished.

The bill amends s. 429.23, F.S., to remove the requirement that all assisted living facilities report monthly to the Agency for Health Care Administration any liability claim filed against it.

This bill also amends s. 429.35, F.S., to remove the requirement that the AHCA distribute, within 60 days after the date of the biennial inspection visit or within 30 days after the date of any interim visit, all biennial and interim visit reports of ALFs to the local ombudsman council, at least one public library or to the county seat in which the inspected ALF is located if there is no library, and to the district Adult Services and Mental Health Program Offices.

Section 429.41, F.S., is amended to remove the requirement that the Department of Elderly Affairs (DOEA) submit a copy of proposed rules to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of substance for review and comment prior to enactment. The bill also removes the requirement that rules promulgated by DOEA encourage the development of homelike facilities which promote the dignity, individuality, personal strengths, and decision-making ability of residents.

Section 429.54, F.S., relating to the collection of information and local subsidies for ALFs, provides that DOEA may conduct field visits and audits of ALFs in order to collection information regarding the actual cost of providing room, board, and personal care to residents. Additionally, the law provides that local governments or organizations may contribute to the cost of care of residents in local ALFs by subsidizing the rate of state-authorized payment to such facilities. This bill repeals s. 429.54, F.S.

If approved by the Governor, these provisions take effect July 1, 2011.
Vote: Senate 39-0; House 111-3