

By Commissioner Heuchan

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1                   A proposal to create  
2           a new section in Article I of the State Constitution  
3           to establish certain rights for residents of assisted  
4           living facilities and nursing home facilities in this  
5           state.

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7 Be It Proposed by the Constitution Revision Commission of  
8 Florida:

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10           A new section is added to Article I of the State  
11 Constitution to read:

12                                   ARTICLE I

13                                   DECLARATION OF RIGHTS

14           Nursing Home and Assisted Living Facility Residents' Bill  
15 of Rights.—

16           (a) In addition to any other rights provided by law, the  
17 residents of nursing home facilities and assisted living  
18 facilities are entitled to be treated courteously, fairly, and  
19 with the fullest measure of dignity by the facilities' owners,  
20 operators, employees, professionals, and others who care for  
21 residents at such facilities.

22           (b) The right to be treated courteously, fairly, and with  
23 the fullest measure of dignity includes, but is not limited to:

24           (1) The right to adequate and appropriate health care and  
25 treatment that puts the residents' needs and best interests  
26 first.

27           (2) The right to a safe, clean, comfortable, and homelike  
28 environment that protects residents from harm and takes into  
29 account this state's challenges with respect to climate and  
30 natural disasters.

31           (3) The right to access courts and a jury system that  
32 allows for a speedy trial and relief and remedies, without

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33 limitations, for loss, injury, and damages caused to residents  
34 and their families by the abuse, negligence, neglect,  
35 exploitation, or violation of residents' rights by the  
36 facilities' owners, operators, employees, professionals, and  
37 others who care for residents at such facilities.

38 (4) The right to know and hold accountable all persons or  
39 entities who own or operate the facilities, including the  
40 persons who are the owners of entities which own or operate the  
41 facilities.

42 (5) The right that the facilities will have the financial  
43 resources or liability insurance in order to ensure that  
44 residents and their families are justly compensated for any  
45 loss, injury, and damage they suffer because of abuse,  
46 negligence, neglect, exploitation, or violations of residents'  
47 rights by owners, operators, employees, professionals, and  
48 others who care for residents at such facilities.

49 (6) The right to have the state require and implement  
50 regular accountability, audit, and review programs that oversee  
51 the facilities, require annual cost reports for reimbursement,  
52 and safeguard the health and quality of life of the facilities'  
53 residents.

54 (c) Nursing home facilities and assisted living facilities,  
55 including the owners, operators, employees, professionals, and  
56 others who care for residents at such facilities, may not  
57 solicit, require, or ask residents, their families, their legal  
58 representatives, and their duly appointed guardians to waive the  
59 rights of residents provided herein or by other laws.

60 (d) Any rights granted under this section do not dissolve  
61 upon the death or incapacity of a resident. Upon the death or

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62 incapacity of a resident, such resident's heirs, estate, family  
63 members, legal representatives, or other appropriate persons are  
64 entitled to any of the rights granted under this section and as  
65 may be provided by general law.

66 (e) This section is self-executing and does not require any  
67 implementing legislation or administrative rules. The  
68 legislature may enact legislation that protects, furthers, and  
69 enhances the rights established by this section. In addition, an  
70 executive branch agency may adopt rules, in accordance with  
71 general law, that protect, further, and enhance the rights of  
72 residents established by this section.

73 (f) Any statute, rule, common law, or other law that is  
74 inconsistent with the rights granted under this section is  
75 preempted.