

By the Committee on Elder Affairs & Long-Term Care and Representatives Sobel, Wasserman Schultz, Betancourt and Gottlieb

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A bill to be entitled
An act relating to nursing homes and assisted living facilities; amending ss. 400.23 and 400.441, F.S.; requiring rules adopted by the Agency for Health Care Administration and the Department of Elderly Affairs to include provisions governing cooling of facilities; providing an effective date.

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

Section 1. Subsection (2) of section 400.23, Florida Statutes, 1998 Supplement, is amended to read:

400.23 Rules; criteria; Nursing Home Advisory Committee; evaluation and rating system; fee for review of plans.--

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Children and Family Health and Rehabilitative Services and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part, which shall include reasonable and fair criteria in relation to:

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, cooling, lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents, including an adequate call system. The agency shall establish standards for facilities and equipment to increase the extent to which new facilities and a new wing or floor added to an existing facility after July 1, 1999, are structurally capable of serving as shelters only for residents, staff, and families of

1 residents and staff, and equipped to be self-supporting during
2 and immediately following disasters. The Agency for Health
3 Care Administration shall work with facilities licensed under
4 this part and report to the Governor and Legislature by April
5 1, 1999, its recommendations for cost-effective renovation
6 standards to be applied to existing facilities. In making such
7 rules, the agency shall be guided by criteria recommended by
8 nationally recognized reputable professional groups and
9 associations with knowledge of such subject matters. The
10 agency shall update or revise such criteria as the need
11 arises. All nursing homes must comply with those lifesafety
12 code requirements and building code standards applicable at
13 the time of approval of their construction plans. The agency
14 may require alterations to a building if it determines that an
15 existing condition constitutes a distinct hazard to life,
16 health, or safety. The agency shall adopt fair and reasonable
17 rules setting forth conditions under which existing facilities
18 undergoing additions, alterations, conversions, renovations,
19 or repairs shall be required to comply with the most recent
20 updated or revised standards.

21 (b) The number and qualifications of all personnel,
22 including management, medical, nursing, and other professional
23 personnel, and nursing assistants, orderlies, and support
24 personnel, having responsibility for any part of the care
25 given residents.

26 (c) All sanitary conditions within the facility and
27 its surroundings, including water supply, sewage disposal,
28 food handling, and general hygiene which will ensure the
29 health and comfort of residents.

30 (d) The equipment essential to the health and welfare
31 of the residents.

1 (e) A uniform accounting system.

2 (f) The care, treatment, and maintenance of residents
3 and measurement of the quality and adequacy thereof, based on
4 rules developed under this chapter and the Omnibus Budget
5 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
6 1987), Title IV (Medicare, Medicaid, and Other Health-Related
7 Programs), Subtitle C (Nursing Home Reform), as amended.

8 (g) The preparation and annual update of a
9 comprehensive emergency management plan. The agency shall
10 adopt rules establishing minimum criteria for the plan after
11 consultation with the Department of Community Affairs. At a
12 minimum, the rules must provide for plan components that
13 address emergency evacuation transportation; adequate
14 sheltering arrangements; postdisaster activities, including
15 emergency power, food, and water; postdisaster transportation;
16 supplies; staffing; emergency equipment; individual
17 identification of residents and transfer of records; and
18 responding to family inquiries. The comprehensive emergency
19 management plan is subject to review and approval by the local
20 emergency management agency. During its review, the local
21 emergency management agency shall ensure that the following
22 agencies, at a minimum, are given the opportunity to review
23 the plan: the Department of Elderly Affairs, the Department
24 of Children and Family ~~Health and Rehabilitative~~ Services, the
25 Agency for Health Care Administration, and the Department of
26 Community Affairs. Also, appropriate volunteer organizations
27 must be given the opportunity to review the plan. The local
28 emergency management agency shall complete its review within
29 60 days and either approve the plan or advise the facility of
30 necessary revisions.

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1 Section 2. Paragraph (a) of subsection (1) of section
2 400.441, Florida Statutes, 1998 Supplement, is amended to
3 read:

4 400.441 Rules establishing standards.--

5 (1) It is the intent of the Legislature that rules
6 published and enforced pursuant to this section shall include
7 criteria by which a reasonable and consistent quality of
8 resident care and quality of life may be ensured and the
9 results of such resident care may be demonstrated. Such rules
10 shall also ensure a safe and sanitary environment that is
11 residential and noninstitutional in design or nature. It is
12 further intended that reasonable efforts be made to
13 accommodate the needs and preferences of residents to enhance
14 the quality of life in a facility. In order to provide safe
15 and sanitary facilities and the highest quality of resident
16 care accommodating the needs and preferences of residents, the
17 department, in consultation with the agency, the Department of
18 Children and Family Services, and the Department of Health,
19 shall adopt rules, policies, and procedures to administer this
20 part, which must include reasonable and fair minimum standards
21 in relation to:

22 (a) The requirements for and maintenance of
23 facilities, not in conflict with the provisions of chapter
24 553, relating to plumbing, heating, cooling, lighting,
25 ventilation, living space, and other housing conditions, which
26 will ensure the health, safety, and comfort of residents and
27 protection from fire hazard, including adequate provisions for
28 fire alarm and other fire protection suitable to the size of
29 the structure. Uniform firesafety standards shall be
30 established and enforced by the State Fire Marshal in
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1 cooperation with the agency, the department, and the
2 Department of Health.

3 1. Evacuation capability determination.--

4 a. The provisions of the National Fire Protection
5 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
6 for determining the ability of the residents, with or without
7 staff assistance, to relocate from or within a licensed
8 facility to a point of safety as provided in the fire codes
9 adopted herein. An evacuation capability evaluation for
10 initial licensure shall be conducted within 6 months after the
11 date of licensure. For existing licensed facilities that are
12 not equipped with an automatic fire sprinkler system, the
13 administrator shall evaluate the evacuation capability of
14 residents at least annually. The evacuation capability
15 evaluation for each facility not equipped with an automatic
16 fire sprinkler system shall be validated, without liability,
17 by the State Fire Marshal, by the local fire marshal, or by
18 the local authority having jurisdiction over firesafety,
19 before the license renewal date. If the State Fire Marshal,
20 local fire marshal, or local authority having jurisdiction
21 over firesafety has reason to believe that the evacuation
22 capability of a facility as reported by the administrator may
23 have changed, it may, with assistance from the facility
24 administrator, reevaluate the evacuation capability through
25 timed exiting drills. Translation of timed fire exiting drills
26 to evacuation capability may be determined:

27 (I) Three minutes or less: prompt.

28 (II) More than 3 minutes, but not more than 13
29 minutes: slow.

30 (III) More than 13 minutes: impractical.

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1 b. The Office of the State Fire Marshal shall provide
2 or cause the provision of training and education on the proper
3 application of Chapter 5, NFPA 101A, 1995 edition, to its
4 employees, to staff of the Agency for Health Care
5 Administration who are responsible for regulating facilities
6 under this part, and to local governmental inspectors. The
7 Office of the State Fire Marshal shall provide or cause the
8 provision of this training within its existing budget, but may
9 charge a fee for this training to offset its costs. The
10 initial training must be delivered within 6 months after July
11 1, 1995, and as needed thereafter.

12 c. The Office of the State Fire Marshal, in
13 cooperation with provider associations, shall provide or cause
14 the provision of a training program designed to inform
15 facility operators on how to properly review bid documents
16 relating to the installation of automatic fire sprinklers.
17 The Office of the State Fire Marshal shall provide or cause
18 the provision of this training within its existing budget, but
19 may charge a fee for this training to offset its costs. The
20 initial training must be delivered within 6 months after July
21 1, 1995, and as needed thereafter.

22 d. The administrator of a licensed facility shall sign
23 an affidavit verifying the number of residents occupying the
24 facility at the time of the evacuation capability evaluation.

25 2. Firesafety requirements.--

26 a. Except for the special applications provided
27 herein, effective January 1, 1996, the provisions of the
28 National Fire Protection Association, Life Safety Code, NFPA
29 101, 1994 edition, Chapter 22 for new facilities and Chapter
30 23 for existing facilities shall be the uniform fire code
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1 applied by the State Fire Marshal for assisted living
2 facilities, pursuant to s. 633.022.

3 b. Any new facility, regardless of size, that applies
4 for a license on or after January 1, 1996, must be equipped
5 with an automatic fire sprinkler system. The exceptions as
6 provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as
7 adopted herein, apply to any new facility housing eight or
8 fewer residents. On July 1, 1995, local governmental entities
9 responsible for the issuance of permits for construction shall
10 inform, without liability, any facility whose permit for
11 construction is obtained prior to January 1, 1996, of this
12 automatic fire sprinkler requirement. As used in this part,
13 the term "a new facility" does not mean an existing facility
14 that has undergone change of ownership.

15 c. Notwithstanding any provision of s. 633.022 or of
16 the National Fire Protection Association, NFPA 101A, Chapter
17 5, 1995 edition, to the contrary, any existing facility
18 housing eight or fewer residents is not required to install an
19 automatic fire sprinkler system, nor to comply with any other
20 requirement in Chapter 23 of NFPA 101, 1994 edition, that
21 exceeds the firesafety requirements of NFPA 101, 1988 edition,
22 that applies to this size facility, unless the facility has
23 been classified as impractical to evacuate. Any existing
24 facility housing eight or fewer residents that is classified
25 as impractical to evacuate must install an automatic fire
26 sprinkler system within the timeframes granted in this
27 section.

28 d. Any existing facility that is required to install
29 an automatic fire sprinkler system under this paragraph need
30 not meet other firesafety requirements of Chapter 23, NFPA
31 101, 1994 edition, which exceed the provisions of NFPA 101,

1 1988 edition. The mandate contained in this paragraph which
2 requires certain facilities to install an automatic fire
3 sprinkler system supersedes any other requirement.

4 e. This paragraph does not supersede the exceptions
5 granted in NFPA 101, 1988 edition or 1994 edition.

6 f. This paragraph does not exempt facilities from
7 other firesafety provisions adopted under s. 633.022 and local
8 building code requirements in effect before July 1, 1995.

9 g. A local government may charge fees only in an
10 amount not to exceed the actual expenses incurred by local
11 government relating to the installation and maintenance of an
12 automatic fire sprinkler system in an existing and properly
13 licensed assisted living facility structure as of January 1,
14 1996.

15 h. If a licensed facility undergoes major
16 reconstruction or addition to an existing building on or after
17 January 1, 1996, the entire building must be equipped with an
18 automatic fire sprinkler system. Major reconstruction of a
19 building means repair or restoration that costs in excess of
20 50 percent of the value of the building as reported on the tax
21 rolls, excluding land, before reconstruction. Multiple
22 reconstruction projects within a 5-year period the total costs
23 of which exceed 50 percent of the initial value of the
24 building at the time the first reconstruction project was
25 permitted are to be considered as major reconstruction.
26 Application for a permit for an automatic fire sprinkler
27 system is required upon application for a permit for a
28 reconstruction project that creates costs that go over the
29 50-percent threshold.

30 i. Any facility licensed before January 1, 1996, that
31 is required to install an automatic fire sprinkler system

1 shall ensure that the installation is completed within the
2 following timeframes based upon evacuation capability of the
3 facility as determined under subparagraph 1.:

4 (I) Impractical evacuation capability, 24 months.

5 (II) Slow evacuation capability, 48 months.

6 (III) Prompt evacuation capability, 60 months.

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8 The beginning date from which the deadline for the automatic
9 fire sprinkler installation requirement must be calculated is
10 upon receipt of written notice from the local fire official
11 that an automatic fire sprinkler system must be installed. The
12 local fire official shall send a copy of the document
13 indicating the requirement of a fire sprinkler system to the
14 Agency for Health Care Administration.

15 j. It is recognized that the installation of an
16 automatic fire sprinkler system may create financial hardship
17 for some facilities. The appropriate local fire official
18 shall, without liability, grant two 1-year extensions to the
19 timeframes for installation established herein, if an
20 automatic fire sprinkler installation cost estimate and proof
21 of denial from two financial institutions for a construction
22 loan to install the automatic fire sprinkler system are
23 submitted. However, for any facility with a class I or class
24 II, or a history of uncorrected class III, firesafety
25 deficiencies, an extension must not be granted. The local
26 fire official shall send a copy of the document granting the
27 time extension to the Agency for Health Care Administration.

28 k. A facility owner whose facility is required to be
29 equipped with an automatic fire sprinkler system under Chapter
30 23, NFPA 101, 1994 edition, as adopted herein, must disclose
31 to any potential buyer of the facility that an installation of

1 an automatic fire sprinkler requirement exists. The sale of
2 the facility does not alter the timeframe for the installation
3 of the automatic fire sprinkler system.

4 1. Existing facilities required to install an
5 automatic fire sprinkler system as a result of
6 construction-type restrictions in Chapter 23, NFPA 101, 1994
7 edition, as adopted herein, or evacuation capability
8 requirements shall be notified by the local fire official in
9 writing of the automatic fire sprinkler requirement, as well
10 as the appropriate date for final compliance as provided in
11 this subparagraph. The local fire official shall send a copy
12 of the document to the Agency for Health Care Administration.

13 m. Except in cases of life-threatening fire hazards,
14 if an existing facility experiences a change in the evacuation
15 capability, or if the local authority having jurisdiction
16 identifies a construction-type restriction, such that an
17 automatic fire sprinkler system is required, it shall be
18 afforded time for installation as provided in this
19 subparagraph.

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21 Facilities that are fully sprinkled and in compliance with
22 other firesafety standards are not required to conduct more
23 than one of the required fire drills between the hours of 11
24 p.m. and 7 a.m., per year. In lieu of the remaining drills,
25 staff responsible for residents during such hours may be
26 required to participate in a mock drill that includes a review
27 of evacuation procedures. Such standards must be included or
28 referenced in the rules adopted by the State Fire Marshal.
29 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
30 final administrative authority for firesafety standards
31 established and enforced pursuant to this section. All

1 licensed facilities must have an annual fire inspection
2 conducted by the local fire marshal or authority having
3 jurisdiction.

4 Section 3. This act shall take effect July 1, 1999.

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