

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

11 Representative(s) Argenziano offered the following:

13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

17 Section 1. Subsections (11) through (17) of section
18 400.021, Florida Statutes, are renumbered as subsections (12)
19 through (18), respectively, and a new subsection (11) is added
20 to said section to read:

21 400.021 Definitions.--When used in this part, unless
22 the context otherwise requires, the term:

23 (11) "Nursing home bed" means an accommodation which
24 is ready for immediate occupancy, or is capable of being made
25 ready for occupancy within 48 hours, excluding provision of
26 staffing; and which conforms to minimum space requirements,
27 including the availability of appropriate equipment and
28 furnishings within the 48 hours, as specified by rule of the
29 agency, for the provision of services specified in this part
30 to a single resident.

31 Section 2. Section 400.0225, Florida Statutes, is

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1 amended to read:

2 400.0225 Consumer satisfaction surveys.--The agency,
3 or its contractor, in consultation with the nursing home
4 industry and consumer representatives, shall develop an
5 easy-to-use consumer satisfaction survey, shall ensure that
6 every nursing facility licensed pursuant to this part
7 participates in assessing consumer satisfaction, and shall
8 establish procedures to ensure that, at least annually, a
9 representative sample of residents of each facility is
10 selected to participate in the survey. The sample shall be of
11 sufficient size to allow comparisons between and among
12 facilities. Family members, guardians, or other resident
13 designees may assist the resident in completing the survey.
14 Employees and volunteers of the nursing facility or of a
15 corporation or business entity with an ownership interest in
16 the facility are prohibited from assisting a resident with or
17 attempting to influence a resident's responses to the consumer
18 satisfaction survey. The agency, or its contractor, shall
19 survey family members, guardians, or other resident designees
20 ~~when the resident is mentally incapable of responding to the~~
21 ~~survey.~~ The agency, or its contractor, shall specify the
22 protocol for conducting and reporting the consumer
23 satisfaction surveys. Reports of consumer satisfaction surveys
24 shall protect the identity of individual respondents. The
25 agency shall contract for consumer satisfaction surveys and
26 report the results of those surveys in the consumer
27 information materials prepared and distributed by the agency.
28 The agency may adopt rules as necessary to administer this
29 section.

30 Section 3. Subsections (3) and (8) of section
31 400.0255, Florida Statutes, are amended to read:

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1 400.0255 Resident transfer or discharge; requirements
2 and procedures; hearings.--

3 (3) When a discharge or transfer is initiated by the
4 nursing home resident is to be discharged or transferred, the
5 nursing home administrator employed by the nursing home that
6 is discharging or transferring the resident, or an individual
7 employed by the nursing home who is designated by the nursing
8 home administrator to act on behalf of the administration ,
9 must sign the notice of discharge or transfer. Any notice
10 indicating a medical reason for transfer or discharge must
11 either be signed by the resident's attending physician or the
12 medical director of the facility, or include an attached
13 written order for the discharge or transfer. The notice or the
14 order must be signed by the resident's physician, medical
15 director, treating physician, nurse practitioner, or physician
16 assistant.

17 (8) The notice required by subsection (7) must be in
18 writing and must contain all information required by state and
19 federal law, rules, or regulations applicable to Medicaid or
20 Medicare cases. The agency shall develop a standard document
21 to be used by all facilities licensed under this part for
22 purposes of notifying residents of a discharge or transfer.
23 Such document must include a means for a resident to request
24 the district long-term care ombudsman council to review the
25 notice and request information about or assistance with
26 initiating a fair hearing with the department's Office of
27 Appeals Hearings. In addition to any other pertinent
28 information included, the form shall specify the reason
29 allowed under federal or state law that the resident is being
30 discharged or transferred, with an explanation to support this
31 action. Further, the form shall state the effective date of

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1 the discharge or transfer and the location to which the
2 resident is being discharged or transferred. The form shall
3 clearly describe the resident's appeal rights and the
4 procedures for filing an appeal, including the right to
5 request the district ombudsman council to review the notice of
6 discharge or transfer. A copy of the notice must be placed in
7 the resident's clinical record, and a copy must be transmitted
8 to the resident's legal guardian or representative and to the
9 district ombudsman council within 5 business days after
10 signature by the resident or resident designee.

11 Section 4.

12 400.141 Administration and management of nursing home
13 facilities.--Every licensed facility shall comply with all
14 applicable standards and rules of the agency and shall:

15 (1) Be under the administrative direction and charge
16 of a licensed administrator.

17 (2) Appoint a medical director licensed pursuant to
18 chapter 458 or chapter 459. The agency may establish by rule
19 more specific criteria for the appointment of a medical
20 director.

21 (3) Have available the regular, consultative, and
22 emergency services of physicians licensed by the state.

23 ~~(4)(5)~~ Provide for resident use of a community
24 pharmacy as specified in s. 400.022(1)(q). Any other law to
25 the contrary notwithstanding, a registered pharmacist licensed
26 in Florida, that is under contract with a facility licensed
27 under this chapter, shall may repackage a nursing facility
28 resident's bulk prescription medication which has been
29 packaged by another pharmacist licensed in any state in the
30 United States into a unit dose system compatible with the
31 system used by the nursing facility, if the pharmacist is

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1 requested to offer such service.~~if such~~ To be eligible for
2 repackaging, a resident or the resident's spouse must receive
3 ~~has bulk~~ prescription medication benefits provided through a
4 former employer as part of his or her retirement benefits
5 ~~covered under~~ a qualified pension plan as specified in s. 4972
6 of the Internal Revenue Code, a federal retirement program as
7 specified under 5 C.F.R. s. 831, or a long-term care policy as
8 defined in s. 627.9404(1). A pharmacist who correctly
9 repackages and relabels the medication and the nursing
10 facility which correctly administers such repackaged
11 medication under the provisions of this subsection shall not
12 be held liable in any civil or administrative action arising
13 from the repackaging. In order to be eligible for the
14 repackaging, a nursing facility resident for whom the
15 medication is to be repackaged shall sign an informed consent
16 form provided by the facility which includes an explanation of
17 the repackaging process and which notifies the resident of the
18 immunities from liability provided herein. A pharmacist who
19 repackages and relabels prescription medications, as
20 authorized under this subsection, may charge a reasonable fee
21 for costs resulting from the implementation of this provision.

22 (5)~~(4)~~ Provide for the access of the facility
23 residents to dental and other health-related services,
24 recreational services, rehabilitative services, and social
25 work services appropriate to their needs and conditions and
26 not directly furnished by the licensee. When a geriatric
27 outpatient nurse clinic is conducted in accordance with rules
28 adopted by the agency, outpatients attending such clinic shall
29 not be counted as part of the general resident population of
30 the nursing home facility, nor shall the nursing staff of the
31 geriatric outpatient clinic be counted as part of the nursing

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1 staff of the facility, until the outpatient clinic load
2 exceeds 15 a day.

3 (6) Be allowed and encouraged by the agency to provide
4 other needed services under certain conditions. If the
5 facility has a standard licensure status, and has had no class
6 I or class II deficiencies during the past 2 years or has been
7 awarded a Gold Seal under the program established in s.
8 400.235, it may be encouraged by the agency to provide
9 services, including, but not limited to, respite and adult day
10 services, which enable individuals to move in and out of the
11 facility. A facility is not subject to any additional
12 licensure requirements for providing these services. Respite
13 care may be offered to persons in need of short-term or
14 temporary nursing home services. Respite care must be provided
15 in accordance with this part and rules adopted by the agency.
16 However, the agency shall, by rule, adopt modified
17 requirements for resident assessment, resident care plans,
18 resident contracts, physician orders, and other provisions, as
19 appropriate, for short-term or temporary nursing home
20 services. The agency shall allow for shared programming and
21 staff in a facility which meets minimum standards and offers
22 services pursuant to this subsection, but, if the facility is
23 cited for deficiencies in patient care, may require additional
24 staff and programs appropriate to the needs of service
25 recipients. A person who receives respite care may not be
26 counted as a resident of the facility for purposes of the
27 facility's licensed capacity unless that person receives
28 24-hour respite care. A person receiving either respite care
29 for 24 hours or longer or adult day services must be included
30 when calculating minimum staffing for the facility. Any costs
31 and revenues generated by a nursing home facility from

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1 nonresidential programs or services shall be excluded from the
2 calculations of Medicaid per diems for nursing home
3 institutional care reimbursement.

4 (7) If the facility has a standard licensure status or
5 is a Gold Seal facility, exceeds minimum staffing standards,
6 and is part of a retirement community that offers other
7 services pursuant to part III, part IV, or part V, be allowed
8 to share programming and staff. At the time of relicensure, a
9 retirement community that uses this option must demonstrate
10 through staffing records that minimum staffing requirements
11 for the facility were exceeded.

12 (8) Maintain the facility premises and equipment and
13 conduct its operations in a safe and sanitary manner.

14 (9) If the licensee furnishes food service, provide a
15 wholesome and nourishing diet sufficient to meet generally
16 accepted standards of proper nutrition for its residents and
17 provide such therapeutic diets as may be prescribed by
18 attending physicians. In making rules to implement this
19 subsection, the agency shall be guided by standards
20 recommended by nationally recognized professional groups and
21 associations with knowledge of dietetics.

22 (10) Keep full records of resident admissions and
23 discharges; medical and general health status, including
24 medical records, personal and social history, and identity and
25 address of next of kin or other persons who may have
26 responsibility for the affairs of the residents; and
27 individual resident care plans including, but not limited to,
28 prescribed services, service frequency and duration, and
29 service goals. The records shall be open to inspection by the
30 agency.

31 (11) Keep such fiscal records of its operations and

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1 conditions as may be necessary to provide information pursuant
2 to this part.

3 (12) Furnish copies of personnel records for employees
4 affiliated with such facility, to any other facility licensed
5 by this state requesting this information pursuant to this
6 part. Such information contained in the records may include,
7 but is not limited to, disciplinary matters and any reason for
8 termination. Any facility releasing such records pursuant to
9 this part shall be considered to be acting in good faith and
10 may not be held liable for information contained in such
11 records, absent a showing that the facility maliciously
12 falsified such records.

13 (13) Publicly display a poster provided by the agency
14 containing the names, addresses, and telephone numbers for the
15 state's abuse hotline, the State Long-Term Care Ombudsman, the
16 Agency for Health Care Administration consumer hotline, the
17 Advocacy Center for Persons with Disabilities, the Statewide
18 Human Rights Advocacy Committee, and the Medicaid Fraud
19 Control Unit, with a clear description of the assistance to be
20 expected from each.

21
22 Facilities that have been awarded a Gold Seal under the
23 program established in s. 400.235 may develop a plan to
24 provide certified nursing assistant training as prescribed by
25 federal regulations and state rules and may apply to the
26 agency for approval of its program.

27 Section 5. Subsection (2) of section 400.191, Florida
28 Statutes, is amended, and subsection (6) is added to said
29 section, to read:

30 400.191 Availability, distribution, and posting of
31 reports and records.--

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1 (2) The agency shall provide additional information in
2 consumer-friendly printed and electronic formats to assist
3 consumers and their families in comparing and evaluating
4 nursing home facilities.

5 (a) The agency shall provide an Internet site which
6 shall include at least the following information either
7 directly or indirectly through a link to another established
8 site or sites of the agency's choosing:

9 1. A list by name and address of all nursing home
10 facilities in this state.

11 2. Whether such nursing home facilities are
12 proprietary or nonproprietary.

13 3. The current owner of the facility's license and the
14 year that that entity became the owner of the license.~~The~~
15 ~~licensure status of each facility.~~

16 ~~4. The ownership history of each facility.~~

17 ~~4.5.~~ The name of the owner or owners of each facility
18 and whether the facility is affiliated with a part of a
19 company or other organization ~~corporation~~ owning or managing
20 ~~operating~~ more than one nursing facility in this state.

21 ~~6. Performance, regulatory, and enforcement~~
22 ~~information about the corporation, as well as the facility.~~

23 ~~5.7.~~ The total number of beds in each facility.

24 ~~6.8.~~ The number of private and semiprivate rooms in
25 each facility.

26 ~~7.9.~~ The religious affiliation, if any, of each
27 facility.

28 ~~8.10.~~ The languages spoken by the administrator and
29 staff of each facility.

30 ~~9.11.~~ Whether or not each facility accepts Medicare or
31 Medicaid recipients or insurance, health maintenance

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1 organization, Veterans Administration, CHAMPUS program, or
2 workers' compensation coverage.

3 ~~10.12.~~ Recreational and other programs available at
4 each facility.

5 ~~13.~~ For nursing homes certified for Medicare or
6 Medicaid, information from the Minimum Data Set system of the
7 federal Health Care Financing Administration about the
8 clinical performance of each facility, including information
9 related to the nursing home quality indicators.

10 ~~14.~~ Information about the licensure status and
11 regulatory history of each facility.

12 ~~11.15.~~ Special care units or programs offered at each
13 facility.

14 ~~12.16.~~ Whether the facility is a part of a retirement
15 community that offers other services pursuant to part III,
16 part IV, or part V.

17 ~~13.17.~~ The results of consumer and family satisfaction
18 surveys for each facility, as described in s. 400.0225. The
19 results may be converted to a score or scores, which may be
20 presented in either numeric or symbolic form for the intended
21 consumer audience.

22 ~~18.~~ The licensure status and rating history for the
23 past 5 years for each facility.

24 ~~14.19.~~ Survey and deficiency information contained on
25 the Online Survey Certification and Reporting (OSCAR) system
26 of the federal Health Care Financing Administration, including
27 annual survey, revisit, and complaint survey information, for
28 each facility for the past 45 months ~~3 years~~. For
29 noncertified nursing homes, state survey and deficiency
30 information, including annual survey, revisit, and complaint
31 survey information for the past 45 months ~~3 years~~ shall be

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1 provided.

2 15. A summary of the Online Survey Certification and
3 Reporting (OSCAR) data for each facility over the past 45
4 months. Such summary may include a score, rating, or
5 comparison ranking with respect to other facilities based on
6 the number of citations received by the facility of annual,
7 revisit, and complaint surveys, the severity and scope of the
8 citations, and the number of annual recertification surveys
9 the facility has had during the past 45 months. The score,
10 rating, or comparison ranking may be presented in either
11 numeric or symbolic form for the intended consumer audience.

12 (b) The agency shall provide the following information
13 in printed form:

14 1. A list by name and address of all nursing home
15 facilities in this state.

16 2. Whether such nursing home facilities are
17 proprietary or nonproprietary ~~and their current ownership.~~

18 3. The current owner or owners of the facility's
19 license and the year that entity became the owner of the
20 license ~~The licensure status of each facility.~~

21 4. The total number of beds, and of private and
22 semiprivate rooms, in each facility.

23 5. The religious affiliation, if any, of each
24 facility.

25 6. The name of the owner of each facility and whether
26 the facility is affiliated with a company or other
27 organization owning or managing more than one nursing facility
28 in this state.

29 ~~7.6.~~ The languages spoken by the administrator and
30 staff of each facility.

31 ~~7. Whether or not each facility accepts Medicare or~~

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1 ~~Medicaid recipients.~~

2 8. Whether or not each facility accepts Medicare or
3 Medicaid recipients or insurance, health maintenance
4 organization, Veterans Administration, CHAMPUS program, or
5 workers' compensation coverage.

6 ~~9.8. Recreational programs, special care units, and~~
7 ~~other programs available at each facility.~~

8 ~~9. A summary of information from the Minimum Data Set~~
9 ~~system of the federal Health Care Financing Administration~~
10 ~~about the clinical performance of each facility.~~

11 ~~10. Information about the licensure status and~~
12 ~~regulatory history of each facility.~~

13 ~~10.11. The results of consumer and family satisfaction~~
14 ~~surveys for each facility, as described in s. 400.0225. The~~
15 ~~results may be converted to a score or scores, which may be~~
16 ~~presented in either numeric or symbolic form for the intended~~
17 ~~consumer audience.~~

18 ~~11.12. The Internet address for the site where more~~
19 ~~detailed information can be seen.~~

20 ~~12.13. A statement advising consumers that each~~
21 ~~facility will have its own policies and procedures related to~~
22 ~~protecting resident property.~~

23 13. A summary of the Online Survey Certification and
24 Reporting (OSCAR) data for each facility over the past 45
25 months. Such summary may include a score, rating, or
26 comparison ranking with respect to other facilities based on
27 the number of citations received by the facility on annual,
28 revisit, and complaint surveys, the severity and scope of the
29 citations, the number of citations, the number of annual
30 recertification surveys the facility has had during the past
31 45 months. The score, rating, or comparison ranking may be

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1 presented in either numeric or symbolic form for the intended
2 consumer audience.

3 (c) For purposes of this subsection, references to the
4 Online Survey Certification and Reporting (OSCAR) system shall
5 refer to any future system that the Health Care Financing
6 Administration develops to replace the current OSCAR system.

7 (d) The agency may provide the following additional
8 information on an Internet site or in printed form as the
9 information becomes available:

- 10 1. The licensure status history of each facility.
- 11 2. The rating history of each facility.
- 12 3. The regulatory history of each facility, which may
13 include federal sanctions, state sanctions, federal fines,
14 state fines, and other actions.
- 15 4. Whether the facility currently possesses the Gold
16 Seal designation awarded pursuant to s. 400.235.
- 17 5. Internet links to the Internet sites of the
18 facilities or their affiliates.

19 (6) The agency may adopt rules as necessary to
20 administer this section.

21 Section 6. Subsection (5) of section 400.23, Florida
22 Statutes, is amended to read:

23 400.23 Rules; evaluation and deficiencies; licensure
24 status.--

25 (5) The agency, in collaboration with the Division of
26 Children's Medical Services of the Department of Health, must,
27 no later than December 31, 1993, adopt rules for minimum
28 standards of care for persons under 21 years of age who reside
29 in nursing home facilities. The rules must include a
30 methodology for reviewing a nursing home facility under ss.
31 408.031-408.045 which serves only persons under 21 years of

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1 age. A facility may be exempt from these standards for
2 specific persons between 18 and 21 years of age, if the
3 person's physician agrees that minimum standards of care based
4 on age are not necessary.

5 Section 7. Paragraph (a) of subsection (3), subsection
6 (4), and paragraphs (e) and (h) of subsection (5) of section
7 400.235, Florida Statutes, are amended, and subsection (9) is
8 added to said section, to read:

9 400.235 Nursing home quality and licensure status;
10 Gold Seal Program.--

11 (3)(a) The Gold Seal Program shall be developed and
12 implemented by the Governor's Panel on Excellence in Long-Term
13 Care which shall operate under the authority of the Executive
14 Office of the Governor. The panel shall be composed of three
15 persons appointed by the Governor, to include a consumer
16 advocate for senior citizens and two persons with expertise in
17 the fields of quality management, service delivery excellence,
18 or public sector accountability; three persons appointed by
19 the Secretary of Elderly Affairs, to include an active member
20 of a nursing facility family and resident care council and a
21 member of the University Consortium on Aging; the State
22 Long-Term Care Ombudsman; one person appointed by the Florida
23 Life Care Residents Association; one person appointed by the
24 Secretary of Health; two persons appointed by the Director of
25 Health Care Administration, to include the Deputy Director for
26 State Health Purchasing; one person appointed by the Florida
27 Association of Homes for the Aging; and one person appointed
28 by the Florida Health Care Association. All members of the
29 panel shall be appointed by October 1, 1999, and the panel
30 shall hold its organizational meeting no later than December
31 10, 1999. Vacancies on the panel shall be filled in the same

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1 manner as the original appointments. ~~No member shall serve for~~
2 ~~more than 4 consecutive years from the date of appointment.~~

3 (4) The panel shall consider ~~at least~~ the quality of
4 care provided to residents ~~following resident-based quality~~
5 ~~indicator domains~~ when evaluating a facility for the Gold Seal
6 Program. The panel shall determine the procedure or procedures
7 for measuring the quality of care.†

8 ~~(a) Accidents.~~

9 ~~(b) Behavioral/emotional patterns.~~

10 ~~(c) Clinical management.~~

11 ~~(d) Cognitive patterns.~~

12 ~~(e) Elimination/continence.~~

13 ~~(f) Infection control.~~

14 ~~(g) Nutrition and eating.~~

15 ~~(h) Physical functioning.~~

16 ~~(i) Psychotropic drug use.~~

17 ~~(j) Quality of life.~~

18 ~~(k) Sensory functioning and communication.~~

19 ~~(l) Skin care.~~

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

22 (e) Have a stable workforce, as evidenced by a
23 relatively low rate of turnover among certified nursing
24 assistants and licensed ~~registered~~ nurses within the 30 months
25 preceding application for the Gold Seal Program, and
26 demonstrate a continuing effort to maintain a stable workforce
27 and to reduce turnover of licensed nurses and certified
28 nursing assistants.

29 ~~(h) Evidence superior levels of clinical outcomes as~~
30 ~~measured in the Minimum Data Set system of the federal Health~~
31 ~~Care Financing Administration. Facilities that are not~~

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1 ~~certified for Medicare or Medicaid are not required to~~
2 ~~complete the Minimum Data Set in order to qualify for the Gold~~
3 ~~Seal Program. Such facilities may demonstrate superior levels~~
4 ~~of performance with an alternate assessment as approved by the~~
5 ~~panel.~~

6
7 A facility assigned a conditional licensure status may not
8 qualify for consideration for the Gold Seal Program until
9 after it has operated for 30 months with no class I or class
10 II deficiencies and has completed a regularly scheduled
11 relicensure survey.

12 (9) The agency may adopt rules as necessary to
13 administer this section.

14 Section 8. Subsection (1) of section 400.962, Florida
15 Statutes, is amended to read:

16 400.962 License required; license application.--

17 (1) It is unlawful to operate an intermediate care
18 facility for the developmentally disabled ~~or a comprehensive~~
19 ~~transitional educational program~~ without a license.

20 Section 9. Subsection (2) of section 397.405, Florida
21 Statutes, is amended to read:

22 397.405 Exemptions from licensure.--The following are
23 exempt from the licensing provisions of this chapter:

24 (2) A nursing home facility as defined in s.
25 400.021(12)(~~11~~).

26 Section 10. The Board of Pharmacy, in cooperation with
27 the Agency for Health Care Administration, shall undertake a
28 study of the feasibility, efficiency, cost-effectiveness, and
29 safety of using automated medication dispensing machines in
30 nursing facilities. The board and the agency may authorize the
31 establishment of demonstration projects in up to five nursing

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1 facilities with a class I institutional pharmacy as part of
2 the study. Demonstration projects may be allowed to continue
3 for up to 12 months. A report summarizing the results of the
4 study shall be submitted by the board and the agency to the
5 Speaker of the House of Representatives and the President of
6 the Senate by January 1, 2001. If the study determines that
7 such dispensing machines would benefit residents of nursing
8 facilities and should be allowed, the report shall identify
9 those specific statutory changes necessary to allow nursing
10 facilities to use automated medication dispensing machines.

11 Section 11. This act shall take effect upon becoming a
12 law.

13
14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 remove from the title of the bill: the entire title

18

19 and insert in lieu thereof:

20 An act relating to nursing homes and related
21 health care facilities; amending s. 400.021,
22 F.S.; defining "nursing home bed"; amending s.
23 400.0225, F.S.; modifying provisions relating
24 to consumer satisfaction surveys; authorizing
25 the Agency for Health Care Administration to
26 adopt rules; amending s. 400.0255, F.S.;
27 providing for medication repackaging; amending
28 s. 400.141, F.S.; requiring a signed order by a
29 physician when the nursing home initiates
30 transfer or discharge of a resident; providing
31 time requirement for notice of discharge or

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1 transfer to certain persons; amending s.
2 400.191, F.S.; modifying requirements for
3 consumer information reporting; authorizing the
4 agency to adopt rules; amending s. 400.23,
5 F.S.; providing an exemption for nursing home
6 residents age 18 to 21 years from certain
7 standards of care based on age, under certain
8 circumstances; amending s. 400.235, F.S.;
9 modifying requirements relating to designation
10 under the nursing home Gold Seal Program;
11 authorizing the agency to adopt rules; amending
12 s. 400.962, F.S.; exempting comprehensive
13 transitional education programs from licensure
14 requirements under pt. XI of ch. 400, F.S.;
15 amending s. 397.405, F.S.; correcting a cross
16 reference; requiring a study relating to use of
17 automated medication dispensing machines in
18 nursing facilities; providing for demonstration
19 projects; requiring a report; providing an
20 effective date.

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