

1
2 An act relating to nursing homes and related
3 health care facilities; amending s. 400.021,
4 F.S.; defining "nursing home bed"; amending s.
5 400.0225, F.S.; modifying provisions relating
6 to consumer satisfaction surveys; authorizing
7 the Agency for Health Care Administration to
8 adopt rules; amending s. 400.0255, F.S.;
9 providing for medication repackaging; amending
10 s. 400.141, F.S.; requiring a signed order by a
11 physician when the nursing home initiates
12 transfer or discharge of a resident; providing
13 time requirement for notice of discharge or
14 transfer to certain persons; amending s.
15 400.191, F.S.; modifying requirements for
16 consumer information reporting; authorizing the
17 agency to adopt rules; amending s. 400.23,
18 F.S.; providing an exemption for nursing home
19 residents age 18 to 21 years from certain
20 standards of care based on age, under certain
21 circumstances; amending s. 400.235, F.S.;
22 modifying requirements relating to designation
23 under the nursing home Gold Seal Program;
24 authorizing the agency to adopt rules; amending
25 s. 400.962, F.S.; exempting comprehensive
26 transitional education programs from licensure
27 requirements under pt. XI of ch. 400, F.S.;
28 amending s. 397.405, F.S.; correcting a cross
29 reference; requiring a study relating to use of
30 automated medication dispensing machines in
31 nursing facilities; providing for demonstration

1 projects; requiring a report; creating s.
2 180.136, F.S.; requiring notice of proposed
3 increases in certain water or sewer utility
4 service rates, charges, or fees; specifying
5 such notice is in addition to other notice and
6 meeting requirements; amending s. 350.0611,
7 F.S.; requiring the Public Counsel to provide
8 legal representation in proceedings before
9 counties under certain circumstances; amending
10 s. 367.171, F.S.; requiring county rate
11 proceedings to follow certain provisions of the
12 Administrative Procedure Act; providing an
13 effective date.

14

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

16

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

1 Section 2. Section 400.0225, Florida Statutes, is
2 amended to read:
3 400.0225 Consumer satisfaction surveys.--The agency,
4 or its contractor, in consultation with the nursing home
5 industry and consumer representatives, shall develop an
6 easy-to-use consumer satisfaction survey, shall ensure that
7 every nursing facility licensed pursuant to this part
8 participates in assessing consumer satisfaction, and shall
9 establish procedures to ensure that, at least annually, a
10 representative sample of residents of each facility is
11 selected to participate in the survey. The sample shall be of
12 sufficient size to allow comparisons between and among
13 facilities. Family members, guardians, or other resident
14 designees may assist the resident in completing the survey.
15 Employees and volunteers of the nursing facility or of a
16 corporation or business entity with an ownership interest in
17 the facility are prohibited from assisting a resident with or
18 attempting to influence a resident's responses to the consumer
19 satisfaction survey. The agency, or its contractor, shall
20 survey family members, guardians, or other resident designees
21 ~~when the resident is mentally incapable of responding to the~~
22 ~~survey.~~ The agency, or its contractor, shall specify the
23 protocol for conducting and reporting the consumer
24 satisfaction surveys. Reports of consumer satisfaction surveys
25 shall protect the identity of individual respondents. The
26 agency shall contract for consumer satisfaction surveys and
27 report the results of those surveys in the consumer
28 information materials prepared and distributed by the agency.
29 The agency may adopt rules as necessary to administer this
30 section.
31

1 Section 3. Subsections (3) and (8) of section
2 400.0255, Florida Statutes, are amended to read:

3 400.0255 Resident transfer or discharge; requirements
4 and procedures; hearings.--

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

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

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

13 Section 4. Section 400.141, Florida Statutes, is
14 amended to read:

15 400.141 Administration and management of nursing home
16 facilities.--Every licensed facility shall comply with all
17 applicable standards and rules of the agency and shall:

18 (1) Be under the administrative direction and charge
19 of a licensed administrator.

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

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

26 (4)~~(5)~~ Provide for resident use of a community
27 pharmacy as specified in s. 400.022(1)(q). Any other law to
28 the contrary notwithstanding, a registered pharmacist licensed
29 in Florida, that is under contract with a facility licensed
30 under this chapter, shall ~~may~~ repackage a nursing facility
31 resident's bulk prescription medication which has been

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

25 (5)~~(4)~~ Provide for the access of the facility
26 residents to dental and other health-related services,
27 recreational services, rehabilitative services, and social
28 work services appropriate to their needs and conditions and
29 not directly furnished by the licensee. When a geriatric
30 outpatient nurse clinic is conducted in accordance with rules
31 adopted by the agency, outpatients attending such clinic shall

1 not be counted as part of the general resident population of
2 the nursing home facility, nor shall the nursing staff of the
3 geriatric outpatient clinic be counted as part of the nursing
4 staff of the facility, until the outpatient clinic load
5 exceeds 15 a day.

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

1 for 24 hours or longer or adult day services must be included
2 when calculating minimum staffing for the facility. Any costs
3 and revenues generated by a nursing home facility from
4 nonresidential programs or services shall be excluded from the
5 calculations of Medicaid per diems for nursing home
6 institutional care reimbursement.

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

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

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

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

1 service goals. The records shall be open to inspection by the
2 agency.

3 (11) Keep such fiscal records of its operations and
4 conditions as may be necessary to provide information pursuant
5 to this part.

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

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

24

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

30

31

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

4 400.191 Availability, distribution, and posting of
5 reports and records.--

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

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

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.

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

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

22 ~~4.5.~~ The name of the owner or owners of each facility
23 and whether the facility is affiliated with a part of a
24 company or other organization ~~corporation~~ owning or managing
25 operating more than one nursing facility in this state.

26 ~~6. Performance, regulatory, and enforcement~~
27 ~~information about the corporation, as well as the facility.~~

28 5.7. The total number of beds in each facility.

29 ~~6.8.~~ The number of private and semiprivate rooms in
30 each facility.

31

- 1 ~~7.9.~~ The religious affiliation, if any, of each
2 facility.
- 3 ~~8.10.~~ The languages spoken by the administrator and
4 staff of each facility.
- 5 ~~9.11.~~ Whether or not each facility accepts Medicare or
6 Medicaid recipients or insurance, health maintenance
7 organization, Veterans Administration, CHAMPUS program, or
8 workers' compensation coverage.
- 9 ~~10.12.~~ Recreational and other programs available at
10 each facility.
- 11 ~~13.~~ ~~For nursing homes certified for Medicare or~~
12 ~~Medicaid, information from the Minimum Data Set system of the~~
13 ~~federal Health Care Financing Administration about the~~
14 ~~clinical performance of each facility, including information~~
15 ~~related to the nursing home quality indicators.~~
- 16 ~~14.~~ ~~Information about the licensure status and~~
17 ~~regulatory history of each facility.~~
- 18 ~~11.15.~~ Special care units or programs offered at each
19 facility.
- 20 ~~12.16.~~ Whether the facility is a part of a retirement
21 community that offers other services pursuant to part III,
22 part IV, or part V.
- 23 ~~13.17.~~ The results of consumer and family satisfaction
24 surveys for each facility, as described in s. 400.0225. The
25 results may be converted to a score or scores, which may be
26 presented in either numeric or symbolic form for the intended
27 consumer audience.
- 28 ~~18.~~ ~~The licensure status and rating history for the~~
29 ~~past 5 years for each facility.~~
- 30 ~~14.19.~~ Survey and deficiency information contained on
31 the Online Survey Certification and Reporting (OSCAR) system

1 of the federal Health Care Financing Administration, including
2 annual survey, revisit, and complaint survey information, for
3 each facility for the past 45 months ~~3 years~~. For
4 noncertified nursing homes, state survey and deficiency
5 information, including annual survey, revisit, and complaint
6 survey information for the past 45 months ~~3 years~~ shall be
7 provided.

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

18 (b) The agency shall provide the following information
19 in printed form:

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

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

24 3. The current owner or owners of the facility's
25 license and the year that entity became the owner of the
26 license ~~The licensure status of each facility.~~

27 4. The total number of beds, and of private and
28 semiprivate rooms, in each facility.

29 5. The religious affiliation, if any, of each
30 facility.

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1 6. The name of the owner of each facility and whether
2 the facility is affiliated with a company or other
3 organization owning or managing more than one nursing facility
4 in this state.

5 ~~7.6.~~ The languages spoken by the administrator and
6 staff of each facility.

7 ~~7. Whether or not each facility accepts Medicare or~~
8 ~~Medicaid recipients.~~

9 8. Whether or not each facility accepts Medicare or
10 Medicaid recipients or insurance, health maintenance
11 organization, Veterans Administration, CHAMPUS program, or
12 workers' compensation coverage.

13 ~~9.8.~~ Recreational programs, special care units, and
14 other programs available at each facility.

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

18 ~~10. Information about the licensure status and~~
19 ~~regulatory history of each facility.~~

20 10.11. The results of consumer and family satisfaction
21 surveys for each facility, as described in s. 400.0225. The
22 results may be converted to a score or scores, which may be
23 presented in either numeric or symbolic form for the intended
24 consumer audience.

25 ~~11.12.~~ The Internet address for the site where more
26 detailed information can be seen.

27 ~~12.13.~~ A statement advising consumers that each
28 facility will have its own policies and procedures related to
29 protecting resident property.

30 13. A summary of the Online Survey Certification and
31 Reporting (OSCAR) data for each facility over the past 45

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

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

14 (d) The agency may provide the following additional
15 information on an Internet site or in printed form as the
16 information becomes available:

17 1. The licensure status history of each facility.
18 2. The rating history of each facility.
19 3. The regulatory history of each facility, which may
20 include federal sanctions, state sanctions, federal fines,
21 state fines, and other actions.

22 4. Whether the facility currently possesses the Gold
23 Seal designation awarded pursuant to s. 400.235.

24 5. Internet links to the Internet sites of the
25 facilities or their affiliates.

26 (6) The agency may adopt rules as necessary to
27 administer this section.

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

30 400.23 Rules; evaluation and deficiencies; licensure
31 status.--

1 (5) The agency, in collaboration with the Division of
2 Children's Medical Services of the Department of Health, must,
3 no later than December 31, 1993, adopt rules for minimum
4 standards of care for persons under 21 years of age who reside
5 in nursing home facilities. The rules must include a
6 methodology for reviewing a nursing home facility under ss.
7 408.031-408.045 which serves only persons under 21 years of
8 age. A facility may be exempt from these standards for
9 specific persons between 18 and 21 years of age, if the
10 person's physician agrees that minimum standards of care based
11 on age are not necessary.

12 Section 7. Paragraph (a) of subsection (3), subsection
13 (4), and paragraphs (e) and (h) of subsection (5) of section
14 400.235, Florida Statutes, are amended, and subsection (9) is
15 added to said section, to read:

16 400.235 Nursing home quality and licensure status;
17 Gold Seal Program.--

18 (3)(a) The Gold Seal Program shall be developed and
19 implemented by the Governor's Panel on Excellence in Long-Term
20 Care which shall operate under the authority of the Executive
21 Office of the Governor. The panel shall be composed of three
22 persons appointed by the Governor, to include a consumer
23 advocate for senior citizens and two persons with expertise in
24 the fields of quality management, service delivery excellence,
25 or public sector accountability; three persons appointed by
26 the Secretary of Elderly Affairs, to include an active member
27 of a nursing facility family and resident care council and a
28 member of the University Consortium on Aging; the State
29 Long-Term Care Ombudsman; one person appointed by the Florida
30 Life Care Residents Association; one person appointed by the
31 Secretary of Health; two persons appointed by the Director of

1 Health Care Administration, to include the Deputy Director for
2 State Health Purchasing; one person appointed by the Florida
3 Association of Homes for the Aging; and one person appointed
4 by the Florida Health Care Association. All members of the
5 panel shall be appointed by October 1, 1999, and the panel
6 shall hold its organizational meeting no later than December
7 10, 1999. Vacancies on the panel shall be filled in the same
8 manner as the original appointments. ~~No member shall serve for
9 more than 4 consecutive years from the date of appointment.~~

10 (4) The panel shall consider ~~at least~~ the quality of
11 care provided to residents following resident-based quality
12 indicator domains when evaluating a facility for the Gold Seal
13 Program. The panel shall determine the procedure or procedures
14 for measuring the quality of care.+

- 15 (a) ~~Accidents.~~
16 (b) ~~Behavioral/emotional patterns.~~
17 (c) ~~Clinical management.~~
18 (d) ~~Cognitive patterns.~~
19 (e) ~~Elimination/continence.~~
20 (f) ~~Infection control.~~
21 (g) ~~Nutrition and eating.~~
22 (h) ~~Physical functioning.~~
23 (i) ~~Psychotropic drug use.~~
24 (j) ~~Quality of life.~~
25 (k) ~~Sensory functioning and communication.~~
26 (l) ~~Skin care.~~

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

- 29 (e) Have a stable workforce, as evidenced by a
30 relatively low rate of turnover among certified nursing
31 assistants and licensed ~~registered~~ nurses within the 30 months

1 preceding application for the Gold Seal Program, and
2 demonstrate a continuing effort to maintain a stable workforce
3 and to reduce turnover of licensed nurses and certified
4 nursing assistants.

5 ~~(h) Evidence superior levels of clinical outcomes as~~
6 ~~measured in the Minimum Data Set system of the federal Health~~
7 ~~Care Financing Administration. Facilities that are not~~
8 ~~certified for Medicare or Medicaid are not required to~~
9 ~~complete the Minimum Data Set in order to qualify for the Gold~~
10 ~~Seal Program. Such facilities may demonstrate superior levels~~
11 ~~of performance with an alternate assessment as approved by the~~
12 ~~panel.~~

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14 A facility assigned a conditional licensure status may not
15 qualify for consideration for the Gold Seal Program until
16 after it has operated for 30 months with no class I or class
17 II deficiencies and has completed a regularly scheduled
18 relicensure survey.

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

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

23 400.962 License required; license application.--

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

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

29 397.405 Exemptions from licensure.--The following are
30 exempt from the licensing provisions of this chapter:

31

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

3 Section 10. The Board of Pharmacy, in cooperation with
4 the Agency for Health Care Administration, shall undertake a
5 study of the feasibility, efficiency, cost-effectiveness, and
6 safety of using automated medication dispensing machines in
7 nursing facilities. The board and the agency may authorize the
8 establishment of demonstration projects in up to five nursing
9 facilities with a class I institutional pharmacy as part of
10 the study. Demonstration projects may be allowed to continue
11 for up to 12 months. A report summarizing the results of the
12 study shall be submitted by the board and the agency to the
13 Speaker of the House of Representatives and the President of
14 the Senate by January 1, 2001. If the study determines that
15 such dispensing machines would benefit residents of nursing
16 facilities and should be allowed, the report shall identify
17 those specific statutory changes necessary to allow nursing
18 facilities to use automated medication dispensing machines.

19 Section 11. Section 180.136, Florida Statutes, is
20 created to read:

21 180.136 Water or sewer utilities; notice.--Before a
22 local government water or sewer utility increases any rate,
23 charge, or fee for water or sewer utility service, the utility
24 shall provide notice of the proposed increase to each customer
25 of the utility through the utility's billing process. The
26 notice shall state the date, time, and place of the meeting of
27 the governing board of the local government at which such
28 increase will be considered. The notice required in this
29 section is in addition to any notice and public meeting
30 requirements for ordinance adoption as provided by general
31 law.

1 Section 12. Section 350.0611, Florida Statutes, is
2 amended to read:

3 350.0611 Public Counsel; duties and powers.--It shall
4 be the duty of the Public Counsel to provide legal
5 representation for the people of the state in proceedings
6 before the commission and in proceedings before counties
7 pursuant to s. 367.171(8). The Public Counsel shall have such
8 powers as are necessary to carry out the duties of his or her
9 office, including, but not limited to, the following specific
10 powers:

11 (1) To recommend to the commission, by petition, the
12 commencement of any proceeding or action or to appear, in the
13 name of the state or its citizens, in any proceeding or action
14 before the commission and urge therein any position which he
15 or she deems to be in the public interest, whether consistent
16 or inconsistent with positions previously adopted by the
17 commission, and utilize therein all forms of discovery
18 available to attorneys in civil actions generally, subject to
19 protective orders of the commission which shall be reviewable
20 by summary procedure in the circuit courts of this state.†

21 (2) To have access to and use of all files, records,
22 and data of the commission available to any other attorney
23 representing parties in a proceeding before the commission.†

24 (3) In any proceeding in which he or she has
25 participated as a party, to seek review of any determination,
26 finding, or order of the commission, or of any hearing
27 examiner designated by the commission, in the name of the
28 state or its citizens.†

29 (4) To prepare and issue reports, recommendations, and
30 proposed orders to the commission, the Governor, and the
31 Legislature on any matter or subject within the jurisdiction

1 of the commission, and to make such recommendations as he or
2 she deems appropriate for legislation relative to commission
3 procedures, rules, jurisdiction, personnel, and functions.†

4 (5) To appear before other state agencies, federal
5 agencies, and state and federal courts in connection with
6 matters under the jurisdiction of the commission, in the name
7 of the state or its citizens.

8 Section 13. Subsection (8) of section 367.171, Florida
9 Statutes, is amended to read:

10 367.171 Effectiveness of this chapter.--

11 (8) Each county which is excluded from the provisions
12 of this chapter shall regulate the rates of all utilities in
13 that county which would otherwise be subject to regulation by
14 the commission pursuant to s. 367.081(1), (2), (3), and (6).
15 The county shall not regulate the rates or charges of any
16 system or facility which would otherwise be exempt from
17 commission regulation pursuant to s. 367.022(2). For this
18 purpose the county or its agency shall proceed as though the
19 county or agency is the commission. In all proceedings
20 conducted by a county or its agency under the authority of
21 this chapter, the provisions of ss. 120.569 and 120.57 shall
22 apply.

23 Section 14. This act shall take effect upon becoming a
24 law.

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