

By the Committee on Elder Affairs & Long-Term Care and
Representative Argenziano

1 A bill to be entitled
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 requiring a signed order by a physician when
10 the nursing home initiates transfer or
11 discharge of a resident; providing time
12 requirement for notice of discharge or transfer
13 to certain persons; amending s. 400.191, F.S.;
14 modifying requirements for consumer information
15 reporting; authorizing the agency to adopt
16 rules; amending s. 400.23, F.S.; providing an
17 exemption for nursing home residents age 18 to
18 21 years from certain standards of care based
19 on age, under certain circumstances; amending
20 s. 400.235, F.S.; modifying requirements
21 relating to designation under the nursing home
22 Gold Seal Program; authorizing the agency to
23 adopt rules; amending s. 400.962, F.S.;
24 exempting comprehensive transitional education
25 programs from licensure requirements under pt.
26 XI of ch. 400, F.S.; amending s. 397.405, F.S.;
27 correcting a cross reference; requiring a study
28 relating to use of automated medication
29 dispensing machines in nursing facilities;
30 providing for demonstration projects; requiring
31 a report; providing an effective date.

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

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3 Section 1. Subsections (11) through (17) of section
4 400.021, Florida Statutes, are renumbered as subsections (12)
5 through (18), respectively, and a new subsection (11) is added
6 to said section to read:

7 400.021 Definitions.--When used in this part, unless
8 the context otherwise requires, the term:

9 (11) "Nursing home bed" means an accommodation which
10 is ready for immediate occupancy, or is capable of being made
11 ready for occupancy within 48 hours, excluding provision of
12 staffing; and which conforms to minimum space requirements,
13 including the availability of appropriate equipment and
14 furnishings within the 48 hours, as specified by rule of the
15 agency, for the provision of services specified in this part
16 to a single resident.

17 Section 2. Section 400.0225, Florida Statutes, is
18 amended to read:

19 400.0225 Consumer satisfaction surveys.--The agency,
20 or its contractor, in consultation with the nursing home
21 industry and consumer representatives, shall develop an
22 easy-to-use consumer satisfaction survey, shall ensure that
23 every nursing facility licensed pursuant to this part
24 participates in assessing consumer satisfaction, and shall
25 establish procedures to ensure that, at least annually, a
26 representative sample of residents of each facility is
27 selected to participate in the survey. The sample shall be of
28 sufficient size to allow comparisons between and among
29 facilities. Family members, guardians, or other resident
30 designees may assist the resident in completing the survey.
31 Employees and volunteers of the nursing facility or of a

1 corporation or business entity with an ownership interest in
2 the facility are prohibited from assisting a resident with or
3 attempting to influence a resident's responses to the consumer
4 satisfaction survey. The agency, or its contractor, shall
5 survey family members, guardians, or other resident designees
6 ~~when the resident is mentally incapable of responding to the~~
7 ~~survey~~. The agency, or its contractor, shall specify the
8 protocol for conducting and reporting the consumer
9 satisfaction surveys. Reports of consumer satisfaction surveys
10 shall protect the identity of individual respondents. The
11 agency shall contract for consumer satisfaction surveys and
12 report the results of those surveys in the consumer
13 information materials prepared and distributed by the agency.
14 The agency may adopt rules as necessary to administer this
15 section.

16 Section 3. Subsections (3) and (8) of section
17 400.0255, Florida Statutes, are amended to read:

18 400.0255 Resident transfer or discharge; requirements
19 and procedures; hearings.--

20 (3) When a discharge or transfer is initiated by the
21 nursing home ~~resident is to be discharged or transferred~~, the
22 nursing home administrator employed by the nursing home that
23 is discharging or transferring the resident, or an individual
24 employed by the nursing home who is designated by the nursing
25 home administrator to act on behalf of the administration ,
26 must sign the notice of discharge or transfer. Any notice
27 indicating a medical reason for transfer or discharge must
28 either be signed by the resident's attending physician or the
29 medical director of the facility, or include an attached
30 written order for the discharge or transfer that is signed by
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1 the resident's physician, medical director, treating
2 physician, nurse practitioner, or physician assistant.

3 (8) The notice required by subsection (7) must be in
4 writing and must contain all information required by state and
5 federal law, rules, or regulations applicable to Medicaid or
6 Medicare cases. The agency shall develop a standard document
7 to be used by all facilities licensed under this part for
8 purposes of notifying residents of a discharge or transfer.
9 Such document must include a means for a resident to request
10 the district long-term care ombudsman council to review the
11 notice and request information about or assistance with
12 initiating a fair hearing with the department's Office of
13 Appeals Hearings. In addition to any other pertinent
14 information included, the form shall specify the reason
15 allowed under federal or state law that the resident is being
16 discharged or transferred, with an explanation to support this
17 action. Further, the form shall state the effective date of
18 the discharge or transfer and the location to which the
19 resident is being discharged or transferred. The form shall
20 clearly describe the resident's appeal rights and the
21 procedures for filing an appeal, including the right to
22 request the district ombudsman council to review the notice of
23 discharge or transfer. A copy of the notice must be placed in
24 the resident's clinical record, and a copy must be transmitted
25 to the resident's legal guardian or representative and to the
26 district ombudsman council within 5 business days after
27 signature by the resident or resident designee.

28 Section 4. Subsection (2) of section 400.191, Florida
29 Statutes, is amended, and subsection (6) is added to said
30 section, to read:

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1 400.191 Availability, distribution, and posting of
2 reports and records.--

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

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

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

13 2. Whether such nursing home facilities are
14 proprietary or nonproprietary.

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

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

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

23 ~~6. Performance, regulatory, and enforcement~~
24 ~~information about the corporation, as well as the facility.~~

25 ~~5.7.~~ The total number of beds in each facility.

26 ~~6.8.~~ The number of private and semiprivate rooms in
27 each facility.

28 ~~7.9.~~ The religious affiliation, if any, of each
29 facility.

30 ~~8.10.~~ The languages spoken by the administrator and
31 staff of each facility.

1 ~~9.11.~~ Whether or not each facility accepts Medicare or
2 Medicaid recipients or insurance, health maintenance
3 organization, Veterans Administration, CHAMPUS program, or
4 workers' compensation coverage.

5 ~~10.12.~~ Recreational and other programs available at
6 each facility.

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

12 ~~14. Information about the licensure status and~~
13 ~~regulatory history of each facility.~~

14 ~~11.15.~~ Special care units or programs offered at each
15 facility.

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

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

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

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

1 information, including annual survey, revisit, and complaint
2 survey information for the past 45 months ~~3 years~~ shall be
3 provided.

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

14 (b) The agency shall provide the following information
15 in printed form:

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

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

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

23 4. The total number of beds, and of private and
24 semiprivate rooms, in each facility.

25 5. The religious affiliation, if any, of each
26 facility.

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

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1 ~~7.6.~~ The languages spoken by the administrator and
2 staff of each facility.

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

5 8. 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 ~~9.8.~~ Recreational programs, special care units, and
10 other programs available at each facility.

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

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

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

21 ~~11.12.~~ The Internet address for the site where more
22 detailed information can be seen.

23 ~~12.13.~~ A statement advising consumers that each
24 facility will have its own policies and procedures related to
25 protecting resident property.

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

1 citations, the number of citations, the number of annual
2 recertification surveys the facility has had during the past
3 45 months. The score, rating, or comparison ranking may be
4 presented in either numeric or symbolic form for the intended
5 consumer audience.

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

10 (d) The agency may provide the following additional
11 information on an Internet site or in printed form as the
12 information becomes available:

13 1. The licensure status history of each facility.

14 2. The rating history of each facility.

15 3. The regulatory history of each facility, which may
16 include federal sanctions, state sanctions, federal fines,
17 state fines, and other actions.

18 4. Whether the facility currently possesses the Gold
19 Seal designation awarded pursuant to s. 400.235.

20 5. Internet links to the Internet sites of the
21 facilities or their affiliates.

22 (6) The agency may adopt rules as necessary to
23 administer this section.

24 Section 5. Subsection (5) of section 400.23, Florida
25 Statutes, is amended to read:

26 400.23 Rules; evaluation and deficiencies; licensure
27 status.--

28 (5) The agency, in collaboration with the Division of
29 Children's Medical Services of the Department of Health, must,
30 no later than December 31, 1993, adopt rules for minimum
31 standards of care for persons under 21 years of age who reside

1 in nursing home facilities. The rules must include a
2 methodology for reviewing a nursing home facility under ss.
3 408.031-408.045 which serves only persons under 21 years of
4 age. A facility may be exempt from these standards for
5 specific persons between 18 and 21 years of age, if the
6 person's physician agrees that minimum standards of care based
7 on age are not necessary.

8 Section 6. Paragraph (a) of subsection (3), subsection
9 (4), and paragraphs (e) and (h) of subsection (5) of section
10 400.235, Florida Statutes, are amended, and subsection (9) is
11 added to said section, to read:

12 400.235 Nursing home quality and licensure status;
13 Gold Seal Program.--

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

1 panel shall be appointed by October 1, 1999, and the panel
2 shall hold its organizational meeting no later than December
3 10, 1999. Vacancies on the panel shall be filled in the same
4 manner as the original appointments. ~~No member shall serve for~~
5 ~~more than 4 consecutive years from the date of appointment.~~

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

11 (a) ~~Accidents.~~

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

13 (c) ~~Clinical management.~~

14 (d) ~~Cognitive patterns.~~

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

16 (f) ~~Infection control.~~

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

18 (h) ~~Physical functioning.~~

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

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

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

22 (l) ~~Skin care.~~

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

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

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

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

15 (9) The agency may adopt rules as necessary to
16 administer this section.

17 Section 7. Subsection (1) of section 400.962, Florida
18 Statutes, is amended to read:

19 400.962 License required; license application.--

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

23 Section 8. Subsection (2) of section 397.405, Florida
24 Statutes, is amended to read:

25 397.405 Exemptions from licensure.--The following are
26 exempt from the licensing provisions of this chapter:

27 (2) A nursing home facility as defined in s.
28 400.021(12)~~(11)~~.

29 Section 9. The Board of Pharmacy, in cooperation with
30 the Agency for Health Care Administration, shall undertake a
31 study of the feasibility, efficiency, cost-effectiveness, and

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

14 Section 10. This act shall take effect upon becoming a
15 law.

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18 HOUSE SUMMARY

19
20 Modifies various provisions relating to nursing homes,
21 including provisions relating to consumer satisfaction
22 surveys, resident discharge or transfer, consumer
23 information reporting, age-based standards of care for
24 residents age 18 to 21 years, and designation under the
25 Gold Seal Program. Authorizes the Agency for Health Care
26 Administration to adopt rules. Removes licensure
27 requirement under pt. XI of ch. 400, F.S., for
28 comprehensive transitional education programs. Requires
29 the Board of Pharmacy and the agency to conduct a study
30 relating to use of automated medication dispensing
31 machines in nursing facilities. Provides for
demonstration projects and requires a report.