

By Senator Holzendorf

2-729-01

1                                   A bill to be entitled  
2           An act relating to nursing homes; amending s.  
3           400.23, F.S.; requiring rules providing  
4           staffing requirements for nursing homes;  
5           providing minimum ratios of certified nursing  
6           assistants to residents; providing  
7           applicability of requirements; requiring that  
8           certain information be posted in each facility;  
9           amending s. 400.063, F.S.; conforming a  
10          cross-reference; providing an effective date.

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

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14           Section 1. Subsection (3) of section 400.23, Florida  
15 Statutes, is amended to read:

16           400.23 Rules; evaluation and deficiencies; licensure  
17 status.--

18           (3)(a) The agency shall adopt rules providing for the  
19 minimum staffing requirements for nursing homes. These  
20 requirements shall include, for each nursing home facility, a  
21 minimum certified nursing assistant staffing and a minimum  
22 licensed nursing staffing per resident per day, including  
23 evening and night shifts and weekends. The facility shall  
24 maintain a minimum ratio of certified nursing assistants to  
25 residents of not less than one certified nursing assistant for  
26 every five residents, during the day shift; one certified  
27 nursing assistant for every six residents, during the  
28 afternoon shift; and one certified nursing assistant for every  
29 eight residents, during the midnight shift.

30           (b) Agency rules shall specify requirements for  
31 documentation of compliance with staffing standards, sanctions

1 for violation of such standards, and requirements for daily  
2 posting of the names of staff on duty for the benefit of  
3 facility residents and the public. The agency shall recognize  
4 the use of licensed nurses for compliance with minimum  
5 staffing requirements for certified nursing assistants,  
6 provided that the facility otherwise meets the minimum  
7 staffing requirements for licensed nurses and that the  
8 licensed nurses so recognized are performing the duties of a  
9 certified nursing assistant. Unless otherwise approved by the  
10 agency, licensed nurses counted towards the minimum staffing  
11 requirements for certified nursing assistants must exclusively  
12 perform the duties of a certified nursing assistant for the  
13 entire shift and shall not also be counted towards the minimum  
14 staffing requirements for licensed nurses. If the agency  
15 approved a facility's request to use a licensed nurse to  
16 perform both licensed nursing and certified nursing assistant  
17 duties, the facility must allocate the amount of staff time  
18 specifically spent on certified nursing assistant duties for  
19 the purpose of documenting compliance with minimum staffing  
20 requirements for certified and licensed nursing staff. In no  
21 event may the hours of a licensed nurse with dual job  
22 responsibilities be counted twice.

23 (c)~~(b)~~ The agency shall adopt rules to allow properly  
24 trained staff of a nursing facility, in addition to certified  
25 nursing assistants and licensed nurses, to assist residents  
26 with eating. The rules shall specify the minimum training  
27 requirements and shall specify the physiological conditions or  
28 disorders of residents which would necessitate that the eating  
29 assistance be provided by nursing personnel of the facility.  
30 Nonnursing staff providing eating assistance to residents  
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1 under the provisions of this subsection shall not count  
2 towards compliance with minimum staffing standards.

3 (d) An employee who is designated as a member of the  
4 nursing staff may not provide services such as food  
5 preparation, housekeeping, laundry, or maintenance services. A  
6 person who is employed to provide such services as food  
7 preparation, housekeeping, laundry, or maintenance services  
8 may not provide nursing care to residents and may not be  
9 counted in determining the ratios of residents to nursing  
10 staff.

11 (e) The staffing requirements provided in paragraphs  
12 (a)-(d) apply to all nursing home residents, including  
13 respite-care residents, and must be adjusted upward to meet  
14 any special care needs of residents. Staffing assignments must  
15 be based on accurate acuity levels and the intensity and time  
16 needed to provide safe, preventive, and restorative care. The  
17 staffing requirements provided in paragraphs (a)-(d) must be  
18 enforced for all residents, regardless of payment source. No  
19 ongoing waivers are allowed.

20 (f) The facility shall post the current ratios of  
21 residents to staff for each wing and floor of the facility and  
22 for each shift. The posted ratios must show separately the  
23 ratio of residents to licensed nursing staff and the ratio of  
24 residents to unlicensed nursing staff directly responsible for  
25 resident care. In addition, such information must be posted  
26 for the most recently concluded cost-reporting period in the  
27 form of average daily staffing ratios for that period. This  
28 information must be posted in each facility in a manner that  
29 is visible and accessible to all residents and their families  
30 and caregivers and to potential consumers of the facility's  
31 services.

1           (g)~~(e)~~ Licensed practical nurses licensed under  
2 chapter 464 who are providing nursing services in nursing home  
3 facilities under this part may supervise the activities of  
4 other licensed practical nurses, certified nursing assistants,  
5 and other unlicensed personnel providing services in such  
6 facilities in accordance with rules adopted by the Board of  
7 Nursing.

8           Section 2. Subsection (1) of section 400.063, Florida  
9 Statutes, is amended to read:

10           400.063 Resident Protection Trust Fund.--

11           (1) A Resident Protection Trust Fund shall be  
12 established for the purpose of collecting and disbursing funds  
13 generated from the license fees and administrative fines as  
14 provided for in ss. 393.0673(2), 400.062(3)(b), 400.111(1),  
15 400.121(2), and 400.23(9)~~400.23(8)~~. Such funds shall be for  
16 the sole purpose of paying for the appropriate alternate  
17 placement, care, and treatment of residents who are removed  
18 from a facility licensed under this part or a facility  
19 specified in s. 393.0678(1) in which the agency determines  
20 that existing conditions or practices constitute an immediate  
21 danger to the health, safety, or security of the residents.  
22 If the agency determines that it is in the best interest of  
23 the health, safety, or security of the residents to provide  
24 for an orderly removal of the residents from the facility, the  
25 agency may utilize such funds to maintain and care for the  
26 residents in the facility pending removal and alternative  
27 placement. The maintenance and care of the residents shall be  
28 under the direction and control of a receiver appointed  
29 pursuant to s. 393.0678(1) or s. 400.126(1). However, funds  
30 may be expended in an emergency upon a filing of a petition  
31 for a receiver, upon the declaration of a state of local

1 emergency pursuant to s. 252.38(3)(a)5., or upon a duly  
2 authorized local order of evacuation of a facility by  
3 emergency personnel to protect the health and safety of the  
4 residents.

5 Section 3. This act shall take effect October 1, 2001.

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SENATE SUMMARY

9 Directs the Agency for Health Care Administration to  
10 adopt rules that prescribe staffing requirements for  
nursing homes, including minimum requirements for the  
11 ratio of certified nursing assistants to residents.  
Provides for the determination of such ratios and their  
12 application to all residents. Requires the posting of  
information on such ratios in each facility, in specified  
13 places and in a visible and accessible manner.

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