



HB 1083

2003

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A bill to be entitled
 An act relating to nursing homes; amending s. 400.021, F.S.; amending the definition of the term "resident care plan" as used in pt. II of ch. 400, F.S.; amending s. 400.111, F.S.; requiring the Agency for Health Care Administration to give notice, as specified, of the necessity to renew a license; amending s. 400.141, F.S.; amending prerequisites to shared staffing; amending provisions that specify deficiencies in staffing which trigger an admissions moratorium; amending s. 400.23, F.S.; amending provisions relating to minimum staffing requirements; providing exceptions for a state of emergency declared by the Governor or his or her designee; amending s. 400.235, F.S.; amending provisions describing the financial soundness and stability that constitutes a prerequisite to recognition as a Gold Seal Program facility; providing an effective date.

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

Section 1. Subsection (17) of section 400.021, Florida Statutes, is amended to read:

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

(17) "Resident care plan" means a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative, which includes a comprehensive assessment of the needs of an individual resident; the type and frequency of services required



HB 1083

2003

31 to provide the necessary care for the resident to attain or
 32 maintain the highest practicable physical, mental, and
 33 psychosocial well-being; a listing of services provided within
 34 or outside the facility to meet those needs; and an explanation
 35 of service goals. The resident care plan must be signed by the
 36 director of nursing, another nurse to whom institutional
 37 responsibilities have been delegated, or the registered nurse
 38 who is responsible for the resident's care, and by the resident,
 39 the resident's designee, or the resident's legal representative.

40 Section 2. Subsection (1) of section 400.111, Florida
 41 Statutes, is amended to read:

42 400.111 Expiration of license; renewal.--

43 (1) A license issued for the operation of a facility,
 44 unless sooner suspended or revoked, shall expire on the date set
 45 forth by the agency on the face of the license or 1 year from
 46 the date of issuance, whichever occurs first. The agency shall
 47 notify the facility by certified mail at least 120 days before
 48 the license expires that a renewal license is necessary to
 49 continue operating. Ninety days prior to the expiration date, an
 50 application for renewal shall be submitted to the agency. A
 51 license shall be renewed upon the filing of an application on
 52 forms furnished by the agency if the applicant has first met the
 53 requirements established under this part and all rules adopted
 54 under this part. The failure to file an application within the
 55 period established in this subsection shall result in a late fee
 56 charged to the licensee by the agency in an amount equal to 50
 57 percent of the fee in effect on the last preceding regular
 58 renewal date. A late fee shall be levied for each and every day
 59 the filing of the license application is delayed, but in no
 60 event shall such fine aggregate more than \$5,000. If an



HB 1083

2003

61 application is received after the required filing date and
62 exhibits a hand-canceled postmark obtained from a United States
63 Post Office dated on or before the required filing date, no fine
64 will be levied.

65 Section 3. Subsection (7) and paragraph (d) of subsection
66 (15) of section 400.141, Florida Statutes, are amended to read:

67 400.141 Administration and management of nursing home
68 facilities.--Every licensed facility shall comply with all
69 applicable standards and rules of the agency and shall:

70 (7) If the facility has a standard license licensure
71 ~~status~~ or is a Gold Seal facility, exceeds the minimum required
72 hours of licensed nursing and certified nursing assistant direct
73 care per resident per day staffing standards, and is part of a
74 continuing care facility licensed under chapter 651 or a
75 retirement community that offers other services pursuant to part
76 III, part IV, or part V on a single campus, be allowed to share
77 programming and staff. At the time of relicensure, a continuing
78 care facility or retirement community that uses this option must
79 demonstrate through staffing records that minimum staffing
80 requirements for the facility were exceeded. Licensed nurses and
81 certified nursing assistants may be used to provide services
82 elsewhere on campus if the facility exceeds the minimum number
83 of direct care hours required per resident per day and the
84 number of residents served on campus by a licensed nurse or a
85 certified nursing assistant never drops below the staffing
86 ratios required in s. 400.23(3)(a). If the facility receives a
87 conditional license, it may not share staff until the
88 conditional license status ends. This subsection does not
89 restrict the agency's authority under federal or state law to
90 require additional staff if a facility is cited for deficiencies



HB 1083

2003

91 in care which are caused by an insufficient number of certified
 92 nurses or licensed nurses.

93 (15) Submit semiannually to the agency, or more frequently
 94 if requested by the agency, information regarding facility
 95 staff-to-resident ratios, staff turnover, and staff stability,
 96 including information regarding certified nursing assistants,
 97 licensed nurses, the director of nursing, and the facility
 98 administrator. For purposes of this reporting:

99 (d) A nursing facility that has failed to comply with
 100 ~~state minimum~~ staffing requirements of s. 400.23(3)(a)1.b. or s.
 101 400.23(3)(a)1.d. for 2 consecutive days is prohibited from
 102 accepting new admissions until the facility has achieved the
 103 ~~minimum~~ staffing requirements of s. 400.23(3)(a)1.b. and 1.d.
 104 for a period of 6 consecutive days. For the purposes of this
 105 paragraph, any person who was a resident of the facility and was
 106 absent from the facility for the purpose of receiving medical
 107 care at a separate location or was on a leave of absence is not
 108 considered a new admission. Failure to impose such an admissions
 109 moratorium constitutes a class II deficiency.

110
 111 Facilities that have been awarded a Gold Seal under the program
 112 established in s. 400.235 may develop a plan to provide
 113 certified nursing assistant training as prescribed by federal
 114 regulations and state rules and may apply to the agency for
 115 approval of their program.

116 Section 4. Paragraph (a) of subsection (3) of section
 117 400.23, Florida Statutes, is amended to read:

118 400.23 Rules; evaluation and deficiencies; licensure
 119 status.--



HB 1083

2003

120 (3)(a)1. The agency shall adopt rules providing for the
 121 minimum staffing requirements for nursing homes. These
 122 requirements shall include, for each nursing home facility:7

123 a. A biweekly average ~~minimum~~ certified nursing assistant
 124 staffing of 2.3 hours of direct care per resident per day
 125 beginning January 1, 2002, increasing to 2.6 hours of direct
 126 care per resident per day beginning January 1, 2003, and
 127 increasing to 2.9 hours of direct care per resident per day
 128 beginning January 1, 2004.

129 b. A daily average certified nursing assistant staffing
 130 that is at least 95 percent of the required biweekly average
 131 under sub-subparagraph a., and at least 0.4 hours of the
 132 required certified nursing assistant direct care per resident
 133 must be maintained during the hours between the hours of 11 p.m.
 134 and 7 a.m., but at least one certified nursing assistant must be
 135 on duty at all times.

136 c. Beginning January 1, 2002, a biweekly average ~~no~~
 137 facility shall staff below one certified nursing assistant per
 138 20 residents, and a ~~minimum~~ licensed nursing staffing of 1.0
 139 hour of direct resident care per resident per day ~~but never~~
 140 below one licensed nurse per 40 residents.

141 d. A daily average licensed nursing staffing that is at
 142 least 95 percent of the required biweekly average under sub-
 143 paragraph c., and at least 0.2 hours of required licensed
 144 nursing direct care per resident must be maintained during the
 145 hours between the hours of 11 p.m. and 7 a.m., but at least one
 146 licensed nurse must be on duty at all times.

147 2. Nursing assistants employed under s. 400.211(2) may be
 148 included in computing the staffing ratio for certified nursing



HB 1083

2003

149 assistants only if they provide nursing assistance services to
150 residents on a full-time basis.

151 3. Each nursing home must document compliance with
152 staffing standards as required under this paragraph and post
153 daily the names of staff on duty for the benefit of facility
154 residents and the public.

155 4. If the Governor or his or her designee declares a state
156 of emergency pursuant to s. 252.36, the agency may not cite
157 affected nursing home facilities for noncompliance with the
158 minimum staffing requirements until the state of emergency is
159 lifted.

160 5. The agency shall recognize the use of licensed nurses
161 for compliance with minimum staffing requirements for certified
162 nursing assistants, provided that the facility otherwise meets
163 the minimum staffing requirements for licensed nurses and that
164 the licensed nurses so recognized are performing the duties of a
165 certified nursing assistant. ~~Unless otherwise approved by the~~
166 ~~agency, licensed nurses counted towards the minimum staffing~~
167 ~~requirements for certified nursing assistants must exclusively~~
168 ~~perform the duties of a certified nursing assistant for the~~
169 ~~entire shift and shall not also be counted towards the minimum~~
170 ~~staffing requirements for licensed nurses. If a nursing home~~
171 ~~facility uses the agency approved a facility's request to use a~~
172 licensed nurse to perform both licensed nursing and certified
173 nursing assistant duties, the facility must allocate the amount
174 of staff time specifically spent on certified nursing assistant
175 duties for the purpose of documenting compliance with minimum
176 staffing requirements for certified and licensed nursing staff.
177 ~~In no event may~~ The hours of a licensed nurse may not ~~with dual~~
178 ~~job responsibilities~~ be counted twice.



HB 1083

2003

179 Section 5. Paragraph (b) of subsection (5) of section
 180 400.235, Florida Statutes, is amended to read:

181 400.235 Nursing home quality and licensure status; Gold
 182 Seal Program.--

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

185 (b) Evidence financial soundness and stability according
 186 to standards adopted by the agency in administrative rule. A
 187 nursing home that is part of the same corporate entity as a
 188 continuing care facility licensed under chapter 651, meets the
 189 minimum liquid reserve requirements specified in s. 651.035, and
 190 is accredited by a recognized accrediting organization under s.
 191 651.028 and rules of the Office of Insurance Regulation
 192 satisfies this requirement as long as the accreditation is not
 193 provisional.

194 Section 6. This act shall take effect upon becoming a law.